*Vindiciæ contra Tyrannos:*

# A Defence of Liberty against Tyrants.

## OR,

## Of the lawfull power of the Prince over the people, and of the people over the Prince.

BEING

A Treatise written in Latin and French by *Junius Brutus*, and translated out of both into ENGLISH.

Questions discussed in this Treatise.

*I. Whether Subjects are bound, and ought to obey Princes, if they command that which is against the Law of God.*

*II. Whether it be lawfull to resist a Prince which doth infringe the Law of God, or ruine the Church, by whom, how, and how farre it is lawfull.*

*III. Whether it be lawfull to resist a Prince which doth oppresse or ruine a publique State, and how farre such resistance may be extended, by whom, how, and by what right, or law it is permitted.*

*IV. Whether neighbour Princes or States may be, or are bound by Law, to give succours to the Subjects of other Princes, afflicted for the cause of true Religion, or oppressed by manifest tyranny.*

LONDON,
Printed by *Matthew Simmons*, and [illegible], in Smithfield, neer the Queens-head Tavern, 1648.

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Printed by Matthew Simmons, and Robert [illegible] in Smithfield, near the Queens head Tavernæ 48.

# THE Emperors, Theodosias *and* Valentinian TO *VOLUSIANUS*, Great Provost of the Empire.

*IT is a thing well-becomming the Majesty of an Emperour, to acknowledge himself bound to obey the Laws. Our authority depending on the authority of the Laws, and in very deed to submit the principallity to Law, is a greater thing then to beare rule. We therfore make it known unto all men, by the Declaration of this our Edict, that Wee doe not allow Our selves, or repute it lawfull to doe any thing contrary to this.*

Justine *in the second Book, speaks thus of* Lycargns, *Law-giver to the* Lacedemonians, *He gave Laws to the* Spartans *which had not any: and was as much renowned for his diligent observing of them himself, as for his discreet Inventing of them: For he made no Laws for others, to the obedience whereof he did not first submit himself. Fashioning the people to obey willingly, and the Prince to Govern uprightly.*

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The

## The first Question.

*Whether Subjects are bound, and ought to obey Princes, if they command that which is against the Law of God.*

THIS question happily may seeme at the first view to be altogether superfluous and unprofitable, for that it seems to make a doubt, of an axiome allways held infallible amongst Christians, confirmed by many testimonies in Holy Scripture, divers examples of the histories of all ages, and by the death of all the Holy Martyrs, for it may be well demanded wherefore Christians have endured so many afflictions, but that they were alwayes perswaded, that God must be obeyed simply, and absolutly, and Kings with this exception that they command not that which is repugnant to the law of God. Otherways wherfore should the Apostles have answered, that God must rather be obeyed than men, and also Act. 4. 19. seeing that the only wil of God is always just, and that of men may be, and is, oftentimes unjust, who can doubt but that we must always obey Gods commandements without any exception, and mens ever with limitation. But for so much as there are many Princes in these days, calling themselves Christians, which arrogantly assumes an unlimited power, over which God himselfe hath no command, and that they have no want of flatterers, which adore them as Gods upon earth, many others also, which for feare, or by constraint, either seem, or else do beleeve, that Princes ought to be obeyed in all things, and by all men. And withall, seeing the unhappines of these times is such, that there is nothing so firme, certain, or pure, which is not shaken, disgraced, or polluted; I feare me that whosoever shall neerly, and throughly consider these things, will confesse this question to be not only most profitable, but also, the times considered, most necessary. For my owne part when I consider the cause of the many calamities, wherewith Christendome hath been afflicted, for these late yeares, I cannot but remember that of the Prophet *Hosea*, *The Princes of Judah were like them* Hos. 5. 10. *that remove the bounds: wherefore I will power out my self like water.* 11. *Ephraim is oppressed, and broken in judgement, because he willingly walked after the Commandement.* Here you see the sin of the Princes, and people dispersed in these two words. The Princes exceed their bounds, not contenting themselves with that authority which the Almighty, and all good God hath given them, but seeke to usurpe that sovereignty, which he

hath reserved to himselfe over all men, being not content to command the bodys, and goods of their Subiects at their pleasure, but assume licence to themselves to inforce the Consciences, which appertaines chiefly to Jesus Christ, holding the earth not great enough for their ambition, they will climbe and conquor heaven it selfe. The people on the other side walkes after the commandement, when they yeeld to the desire of Princes, who command them that which is against the law of God, and as it were burn incense to, and adore these earthly Gods; and instead of resisting them, if they have means and occasion; suffer them to usurp the place of God, making no conscience to give that to *Cæsar*, which belongs properly and only to God. Now is there any man that sees not this, if a man disobey a Prince commanding that which is wicked and unlawfull, hee shall presently bee esteemed a Rebell, a Traytor, and guilty of High Treason, our Saviour Christ, the Apostles and all the Christians of the Primitive Church were charged with these Calumnies. If any after the example of *Ezra*, and *Nehemiah*, dispose himselfe to the building of the Temple of the Lord, It wil be said he aspires to the Crowne, hatches innovations, and seeks the ruine of the State, then you shall presently see a million of these Minnions, and flatterers of Princes tickling their eares with an opinion, that if they once suffer this Temple to be re-builded, they may bid their Kingdome farewell, and never look to raise impost or taxes on these men. But what a madnesse is this? There are no estates which ought to be esteemed firme and stable, but those, in whom the Temple of God is built, and which are indeed the Temple it selfe, and these we may truly call Kings, which reigne with God, seeing that it is by him only that Kings reign: On the contrary what beastly foolishnesse is it to think, that the State and Kingdome cannot subsist if God Almighty be not excluded, and his Temple demolished. From hence proceeds so many Tyrannous enterprises, unhappy and tragick death of Kings, and ruines of people. If these Sicophants knew what difference there is between *God* and *Cæsar*, between the King of Kings, and a simple King, between the Lord, and the Vassal, and what tributs this Lord requires of his Subjects, and what authority he gives to Kings over those his Subiects, certainly so many Princes would not strive to trouble the Kingdome of *God*, and we should not see some of them precipitated from their

Ezra: 4. Nehe. 5 7.

Throns

Throns by the just instigation of the Almighty, revenging himselfe of them, in the midst of their greatest strength, and the people should not be so sack't and pillag'd, and troden down.

It then belongs to Princes to know how farre they may extend their authority, and to subjects in what they may obey them, lest the one incroaching on that jurisdiction, which no way belongs to them, and the others obeying him which commandeth further then he ought, they be both chastised, when they shall give an account thereof before another Judge: Now the end and scope of the question propounded, whereof the Holy Scripture shall principally give the resolution, is that which followeth. The question is, if subjects be bound to obey Kings, in case they command that which is against the Law of God: that is to say, to which of the two (God or the King) must we rather obey, when the question shall be resolved concerning the King, to whom is attributed absolute power, that concerning other Magistrates shall be also determined.

First, the Holy Scripture doth teach, that God reignes by his owne proper authority, and Kings by derivation, God from himselfe, Kings from God, that God hath a jurisdiction proper, Kings are his delegates: It followes then, that the jurisdiction of God hath no limits, that of Kings bounded, that the power of God is infinit, that of Kings confin'd, that the Kingdom of God extends it selfe to all places, that of Kings is restrain'd within the confines of certaine countries: In like manner God hath created of nothing both heaven, and earth; wherefore by good right he is Lord, and true Proprietorie, both of the one, and the other: All the Inhabitants of the earth hold of him that which they have, and are but his tenants, and farmers; all the Princes and Governors of the world are his stipendaries, and vassals, and are bound to take and acknowledge their investitures from him. Briefly, God alone is the owner and Lord, and all men of what degree, or quality soever they be, are his servants, farmers, officers, and vassals, and owe account, and acknowledgement to him, according to that which he hath committed to their dispensation, the higher their place is, the greater their account must be, and according to the ranks whereunto God hath rais'd them, must they make their reckoning before his divine Majesty, which the Holy Scripture teacheth in infinit places, and all the faithfull, yea, and the wisest amongst the Heathen have ever acknowledged: The earth is the Lords, and the fulnesse thereof, (so saith King *David*) And to the end that men should not sacrifice to their owne industry; the earth yeelds

Prov. 8. Iob 12. Wisd. 6.3.

Psal. 24.

no

no increaſe without the dew of heaven: Wherefore God commanded that his people ſhould offer unto him the firſt of their fruits, and the Heathens themſelves have conſecrated the ſame unto their gods; to the end, that God might be acknowledged Lord,
Iſay 66. 1. and they his grangers and vine dreſſers; the heaven is the Throne
1 Kings 1. 8. of the Lord, and the earth his foot-ſtoole. And therefore ſeeing all the Kings of the world are under his feet; it is no marvail, if God be called the King of kings, and Lord of lords; all Kings be termed his Miniſters eſtabliſhed to judge rightly, and govern juſtly
Prov. 8. 15 the world in the quality of Liveteinants. By me (ſo ſaith the di-
Job 12. 18. vine Wiſdom) Kings reigne, and the Princes judge the earth: If
Dan. 2. 21. they doe it not he looſeth the bonds of Kings, and girdeth their loyns with a girdle. As if he ſhould ſay, it is in my power to eſtabliſh Kings in their Thrones, or to thruſt them out, and from that occaſion the Throne of Kings is called the Throne of God. Bleſſed
2 Chron 9. 8. be the Lord thy God (ſaith the Queen of *Sheba*) to King *Solomon*) which delighted in thee to ſet thee on his Throne to be King for the Lord thy God, to doe judgement and juſtice. In like manner
2 Chron. 25. 23. we reade in another place, that *Solomon* ſate on the Throne of the
1 Sam. 9. 16. and 10. 1. Lord, or on the Throne of the Lords Kingdome. By the ſame reaſon the people is alwayes called the Lords people, and the Lords inheritance, and the Kings Governor of this inheritance, and Conductor or Leader of his people of God, which is the title given
2 Sam. 6. 21. to *David*, to *Solomon*, to *Ezechias*, and to other good Princes;
2 Kings 20. 5. when alſo the Covenant is paſſed betwixt God and the King, it is upon condition that the people be, and remaine alwayes the peo-
2 Chron. 1 9. 1 ple of God, to ſhew that God will not in any caſe deſpoyle him-
2 King. 11. 2 Chron, 33. 16. ſelfe of his propriety, and poſſeſſion, when he gives to Kings the government of the people, but eſtabliſh them to take charge of, and well uſe them, no more nor leſſe then he which makes choyſe of a Shepheard to looke to his flocks, remains notwithſtanding
2 Chron. 20. 6. himſelfe ſtill Maſter and owner of them. This was alwayes knowne to thoſe good Kings, *David*, *Solomon*, *Jehoſaphat*, and others which acknowledged God to bee the Lord of their Kingdomes and nations, and yet loſt no priviledge that juſtly belongs to reall power; yea, they reigned much more happily in that they employed themſelves cheerfully in the ſervice of God, and in obedience to his Commandements. *Nebuchadnezar*, although hee
Dan. 2. 37. and 4. 14. were a Heathen, and a mighty Emperour, did yet at the end acknowledge this, for though *Daniel* called him the King of Kings, to whom thee King of Heaven had granted power and Royall Majeſty above all others: Yet on the contrary, (ſaid hee)

Thy

*Thy God O Daniel is truly the God of Gods, and Lord of Lords giving Kingdomes to whom he pleaseth*, yea, to the most wretched of the world. For which cause *Zenephon* said at the Coronation of *Cyrus*; let us sacrifice to God. And prophane Writers in many places doe magnifie God the most mighty and Sovereigne King. At this day at the Inaugurating of Kings, and Christian Princes, they are called the servants of God, destinated to governe his people. Seeing then that Kings are only the Leiutenants of God, established in the Throne of God, by the Lord God himselfe, and the people are the people of God, and that the honour which is done to these Leiutenants proceeds from the reverence which is borne to those, that sent them to this service: it followes of necessity that Kings must bee obeyed for Gods cause, and not against God, and then, when they serve and obey God, and not otherwayes. It may be that the flatterers of the Court wil reply, that God hath resigned, his power unto Kings, reserving Heaven for himselfe, and allowing the Earth to them to reign, and govern there according to their owne phancies; briefly that the great ones of the World hold a devided Empire with God himselfe. Behold a discourse proper enough for that impudent Villaine *Cleon* the Sicophant of *Alexander*, or for the poet Martiall which was not ashamed to call the Edicts of *Domitian*, the Ordinances of the Lord God. This discourse I say is worthy of that execrable *Domitian* who (as *Suetonius* recites) would be called God and Lord: But altogether unworthy of the eares of a Christian-Prince, and of the mouth of good Subjects, that sentence of God almighty must always remaine irrevocably true, *I will not give my glory to any other*, that is, no man shall have such absolute authority, but I will alwayes remaine sovereigne. God doth not at any time divest himselfe of his power, he holds a Scepter in one hand to represse and quell the audatious boldnesse of those Princes which mutiny against him, and in the other a ballance to controle those that administer not justice with equity as they ought, then these, there cannot be expressed more certaine markes of sovereigne command. And if the Emperor in creating a King, reserves alwayes to himselfe the imperiall soveraignty, or a King as he of *France* in granting the government or possession of a Province to a stranger, or if it be to his Brother or Son reserves always to himselfe appeales, and the

Divisum imperium cum Jove Cæsar habet.

Isa. 48. 11.

psa. 2. 9. Wisd. 6, 4.

knowledg of ſuch things as are the marks of royalty and ſovereignty, the which alſo are always underſtood of themſelves to be excepted, although they wer altogether omitted in the grant of inveſtiture, and fealty promiſed, with much more reaſon ſhould God have ſovereign power and command over al Kings being his ſervants and Officers, ſeeing wee reade, in ſo many places of Scripture, that he will call them to an account, and puniſh them, if they doe not faithfully diſcharge their duties. Then therefore all Kings are the Vaſſals of the King of Kings, inveſted into their Office by the ſword, which is the cogniſance of their royall authority, to the end, that with the ſword they maintaine the Law of God, defend the good, and puniſh the evill: Even as we commonly ſee, that he which is a ſovereigne Lord, puts his Vaſſals into poſſeſſion of their fee, by girding them with a ſword, delivering them a buckler, and a ſtandard, with condition that they ſhall fight for them with thoſe armes if occaſion ſhall ſerve. Now if we conſider what is the duty of Vaſſalls, we ſhall find that what may be ſaid of them, agrees properly to Kings. The Vaſſall receives his fee of his Lord with right of juſtice, and charge to ſerve him in his warres. The King is eſtabliſhed by the Lord God, the King of Kings; to the end he ſhould adminiſter juſtice to his people and defend them againſt all their enemies. The Vaſſall receives law and conditions from his Sovereigne: God commands the King to obſerve his laws and to have them always before his eyes, promiſing that he and his ſucceſſors ſhall poſſeſſe longthe Kingdom, if they be obedient, and on the contra- that their reigne ſhall be of ſmall continuance, if they prove ry, rebellious to their Sovereigne King. The Vaſſall obligeth himſelfe by Oath unto his Lord, and ſweares that he will be faithfull, and obedient: In like manner the King promiſeth ſolemnly to command, according to the expreſſe Law of God. Briefly the Vaſſall looſeth his fee, if he commit fellony, and by law forfeiteth all his priveledges: In the like caſe the King looſeth his Right, and many times his Realme alſo, if he diſpiſe God, if he complot with his enemies, and if he commit fellony againſt that Royall Majeſty, this will appeare more clearely by the conſideration of the Covenant which is contracted between God and the King, for God does that honour

1 Sam. 8. and 9 20.

Deu. 17. 19.

to his ſervants to call them his confederats. Now we reade of two ſorts of Covenants at the Inaugurating of Kings, the firſt betweene God, the King, and the People, that the people might be the people of God: The ſecond between the King and the people, that the people ſhall obey faithfully, and the King command juſtly, we will treat hereafter of the ſecond, and now ſpeak of the firſt:

When King *Joas* was crowned we read that a Covenant was contracted between God, the King, and the People: or, as it is ſaid in another place between *Jehojada* the High-Prieſt, all the People, and the King, *That God ſhould bee their Lord.* In like manner we read that *Joſias* and all the people entred into Covenants with the Lord: we may gather from theſe teſtimonies, that in paſſing theſe Covenants the High-Prieſt did Covenant in the name of God in expreſſe termes, that the King and the people ſhould take order that God might be ſerved purely, and according to his will, throughout the whole Kingdome of *Juda*, that the King ſhould ſo reigne that the people were ſuffered to ſerve God, and held in obedience to his law: That the people ſhould ſo obey the King, as their obedience ſhould have principall relation to God. It appeares by this that the King & the people are joyntly bound by promiſe and did obleige themſelves by ſolemn Oath to ſerve God before al things. And indeed preſently after they had ſworn the Covenant, *Joſias* and *Joas* did ruine the Idolatry of *Baal* and re-eſtabliſhed the pure ſervice of God. The principall poynts of the Covenants were cheifly theſe.

The Alliance betweene God and the Kings. 2 King. 11. 2 Chro. 23. 16. 2 king. 23.

That the King himſelfe, and all the people ſhould be carefull to honour and ſerve God according to his will revealed in his word, which if they performed, God would aſſiſt and preſerve their eſtates: as in doing the contrary, he would abandon, and exterminate them, which doth plainly appeare by the conferring of divers paſſages of holy writ. *Moſes* ſomewhat before his death propounds theſe conditions of Covenant to all the people, and at the ſame time commands that the Law, which be thoſe precepts given by the Lord ſhould be in *depoſito* kept in the Arke of the Covenant. After the deceaſe of *Moſes*, *Joſhua* was eſtabliſhed Captaine, and Conductor of the people of God, and according as the Lord himſelfe admoniſhed, if hee would have happy ſucceſſe in his affaires

Deut. 29. 30. 31. Deut. 31. 26. Joſh. 1.

Deut. 27. 2. Jos. 5. & 24. faires, he should not in any sort estrange himselfe from the Law: *Josua* also for his part, desiring to make the *Israelites* understand upon what condition God had given them the Country of *Canaan*, as soon as they were entred into it, after due sacrifices performed, he read the Law in the presence of all the people, promising unto them in the Lords name all good things if they persisted in obedience; and threatning of all evill if they wilfully connived in disobedience. Sommarily, he assures them all prosperity, if they observed the Law; as otherways, he expresly declared, that in doing the contrary they should bee utterly ruined: Also at all such times as they left the service of God, they were delivered into the hands of the *Canaanites*, and reduced into slavery, under their Tyranny. Now this Covenant between God and the people in the times of the Judges, had vigor also in the times of the Kings, and was treated with them. After that *Saul* had been anoynted, chosen, and wholly established King, *Samuel* speakes unto the people in these termes; *Behold the King whom you have demanded*
2Sam. 12. *and chosen, God hath established him King over you, obey you therefore and serve the Lord, as well you, as your King which is established over you, otherwise you and your King shall perish.* As if hee should say, you would have a King and God hath given you this here, notwithstanding thinke not that God will suffer any encroachment upon his right, but know that the King is as well bound to observe the Law as you, and if he faile therein, his delinquency shall be punished as severely as yours: Briefly, according to your desires *Saul* is given you for your King, to lead you in the wars, but with this condition annexed, that he himself follow
1King. 2. 4. & 6. 12. the Law of God. After that *Saul* was rejected, because he kept not his promise, *David* was established King on the same condition, so also was his Son *Solomon*, for the Lord said, *If thou keep my Law, I will confirm with thee the Covenant which I contracted with David.* Now concerning this Covenant, it is inserted into the second book of the Chronicles, as followeth. *There shall not faile thee a man in my*
2Chron. 6. 16. & 7. 17. 2King. 33. 2. Deut 17. 18 1Sam. 10. 25. *sight, to sit upon the Throne of Israel: yet so that thy children take heed to their way to walk in my Law, as thou hast walked before me. But if they serve Idols, I will drive them from the Land whereof I have given them possession.* And therefore it was that the book of the Law was called the book of the Covenant of the Lord, (who commanded the Priests to give it the King) according to which *Samuel* put it

into

into the hands of *Saul*, and according to the tenure thereof *Josias* yeelds himself *fœdetarie* and vassal of the Lord. Also the Law which is kept in the Ark, is called the Covenant of the Lord with the children of Israel. Finally, the people delivered from the captivity of *Babylon*, doe renew the Covenant with God, and do acknowledge throughout that Chapter, that they worthily deserved all those punishments for their falsifying their promise to God. It appears then that the Kings swear as vassals to observe the Law of God, whom they confesse to be Sovereign Lord over all, Now according to that which we have already touched, if they violate their Oath, and transgresse the law, we say that they have lost their kingdome, as vassalls loose their fee by committing fellony. We have said that there was the same covenant between God and the Kings of *Judah*, as before, between God and the people in the times of *Josua* and the Judges. But we see in many places, that when the people hath despised the Law, or made covenants with *Baal*, God hath delivered them into the hands of *Eglon*, *Jabin*, and other Kings of the *Canaanites*: And as it is one and the same Covenant, so those which do break it, receive like punishment. *Saul* is so audacious to sacrifice, infringing thereby the Law of God, and presently after saves the life of *Agag*, King of the *Amalekites*, against the expresse Commandement of God, for this occasion he is called Rebell by *Samuel*, and finally is chastized for his Rebellion. *Thou hast sacrificed*, saith he, *but thou hadst done better to obey God, for obedience is more worthy than sacrifice.* Thou hast neglected the Lord thy God, he also hath rejected thee, that thou Reign no more over *Israel*. This hath been so certainly observed by the Lord, that the very children of *Saul* were deprived of their paternall inheritance, for that he having committed high Treason, did thereby incurre the punishment of Tirants, which affect a Kingdom that no way appertains unto them. And not only the Kings, but also their children and successors have been deprived of the Kingdome by reason of such fellony. *Solomon* revolted from God to worship Idols. Incontinently the Prophet *Abijah* foretels that the Kingdome shall be divided under his Son *Roboboam*. Finally, the word of the Lord is accomplished, and ten Tribes which made the greatest portion of the Kingdome, doe quit *Roboboam*, and adhere to *Jeroboam* his servant. Wherefore is this? for so much (saith the Lord) that they have left me to goe after *Astoroch*, the God of the Sidoniens and *Chamos* the God of the *Moabites*, &c. I will also break in

2 Chron. 6 11. Nehem. 9 38.

Jud. 2. 24 & 4. 2. &c. & 9. 33. 1 Sam. 13. 13. & 15. 26.

 pieces

peeces their Kingdome: as if he ſhould ſay, they have violated the Covenant, and have not kept promiſe, I am no more then tied unto them, they will leſſen my majeſty, and I will leſſen their Kingdome: Although they be my ſervants, yet notwithſtanding they will expel me my Kingdome; but I will drive them out themſelves by *Ierobobam* which is their ſervant. Furthermore, for ſo much as this ſervant, fearing that the ten tribes for the cauſe of Religion ſhould returne to *Ieruſalem*, ſet up Calves in *Bethel*, and made *Iſrael* to ſin, withdrawing by this meanes the people far from God, what was the puniſhment of ſo ingratfull a Vaſſall and wicked Traytor towards his Lord? Firſt, his ſon died, and in the end all his race, even unto the laſt of the males was taken from the face of the earth by the ſword of *Baaſa*, according to the judgement which was pronounced againſt him by the Prophet, becauſe he revolted from the obedience of the Lord God: this then is cauſe ſufficient, & often times alſo propounded, for the which God doth take from the King his fee, when he oppoſeth the Law of God, & withdraws himſelfe from him to follow his enemies, to wit Idols, and as like crimes deſerve like puniſhments, we read in the holy Hiſtories that Kings of *Iſrael* and of *Juda* which have ſo far forgotten themſelves, have in the end miſerably periſhed. Now although the forme both of the Church, and the *Jewiſh* Kingdome be changed, for that that which was before incloſed within the narrow bounds of *Judea*, is now dilated throughout the whole World, notwithſtanding the ſame things may be ſaid of Chriſtian Kings, the Goſpell having ſucceeded the Law, and Chriſtian Princes being in the place of thoſe of *Jury*: There is the ſame Covenant, the ſame Conditions, the ſame Puniſhments, and if they faile in the accompliſhing, the ſame God Almighty revenger of all perfidious diſloyalty; and as the former were bound to keep the Law, ſo the other are obliged to adhere to the doctrine of the Goſpel, for the advancement whereof theſe Kings at their anoynting, and receiving, doe promiſe to imploy the utmoſt of their means.

*Herod* fearing Chriſt, whoſe reign he ſhould rather have deſired, ſought to put him to death, as if he had affected a Kingdome in this World, did himſelfe miſerably periſh, and loſt his Kingdome. *Julian* the Apoſtate did caſt off Chriſt Jeſus to cleave unto the Impiety and Idolatry of the *Pagans*: but within

within a ſmall time after he fell to his confuſion, the force of the arme of Chriſt, whom in mockery he called the *Gallilean*. Antient hiſtories are repleate with ſuch examples, neither is there any want in thoſe of theſe times. Of late yeares divers Kings drunke with the liquor which the Whore of *Babilon* hath preſented unto them, have taken armes, and for the love of the Wolfe, and of Antichriſt, have made War againſt the Lambe of God, which is Chriſt Jeſus, and yet at this day ſome amongſt them doe continue in the ſame courſe, wee have ſeen ſome of them ruin'd in the deed, and in the middeſt of their wickedneſſe, others alſo carried from their triumphs to their graves, thoſe which ſurvive and follow them in their courſes have little reaſon to expect a better iſſue of their wicked practices, this ſentence remaines always moſt certaine, *That though all the Kings of the earth doe conjure and conſpire againſt Chriſt and indeavour to cut in peeces our Lambe, yet in the end they ſhall yeeld the place, and maugre their hearts, confeſſe that this Lambe is the King of Kings, and Lord of Lords.* But what ſhall wee ſay of the Heathen Kings? Certainly although they be not anoynted and ſacred of God, yet be they his Vaſſalls and have received their power from him, whether they be choſen by lot or any other meanes whatſoever. If they have been choſen by the voyces of an Aſſembly, we ſay that God governs the heart of man, and addreſſes the minds and intentions of all perſons whether he pleaſeth: If it be by lot, the lot is caſt in the lap, ſaith the wiſe man, *but the whole diſpoſing thereof is of the Lord.* It is God only that in all ages eſtabliſheth, and takes away, confirmes, and overthrows Kings according to his good pleaſure; In which regard *Iſay* cals *Cyrus* the anoynted of the Lord, and *Daniel* ſaith that *Nebuchadnezer* and others have had their Kingdomes committed unto them by God; as alſo Saint *Paul* maintains that all Magiſtrats have received their authority from him: For although that God hath not commanded *Pagans* in expreſſe termes to obey him as he hath don thoſe that have knowledg of him: yet notwithſtanding the *Pagans* muſt needs confeſſe that it is by the ſovereigne God that they reign, wherefore if they will not yeeld the tribute that they owe to God in regard of themſelves, at the leaſt let them not attempt nor hinder the Sovereigne to gather that which is due from thoſe people which are in ſubjection to them; nor that they doe not anticipate, nor appropriate

pſa. 2.2. pſa. 110.2. Apoc. 19: 16.

pro. 16,33.

Eſa. 45.1. Dan. 2. 21 & 4. 24. Rom, 13.1.

priate to themſelves divine Juriſdiction over them, which is the crime of high treaſon and true tyrannie, for which occaſion the Lord hath grievouſly puniſhed even the Pagan Kings themſelves. It then becomes thoſe Princes that will free themſelves from ſo enormious a miſchiefe, carefully to diſtinguiſh their juriſdiction from that of Gods, yea, ſo much the more circumſpectly for that God and the Prince have their right of authority over one and the ſame Land, over one and the ſame man, over one and the ſame thing; man is compoſed of body and ſoule, God hath formed the body and infuſed the ſoule into him, to him only then may be attributed, and appropriated the commands both over the body and ſoule of man. If out of his meer grace and favour he hath permitted Kings to employ both the bodies and goods of their ſubjects, yet ſtill with this Proviſo and charge, that they preſerve and defend their ſubjects; certainly Kings ought to thinke that the uſe of this authority is in ſuch manner permitted, that notwithſtanding the abuſe of it is abſolutely forbidden: Firſt, thoſe which confeſſe that they hold their ſoules and lives of God, as they ought to acknowledge, they have then no right to impoſe any tribute upon ſoules. The King takes tribute and cuſtome of the body, and of ſuch things as are acquired or gained by the induſtry and travaile of the body, God doth principally exact his right from the ſoule, which alſo in part executes her functions by the body. In the tribute of the King are comprehended the fruits of the earth, the contributions of money and other charges, both reall and perſonall; the tribute of God is in Prayers, Sacraments, Predications of the pure word of God; briefly, all that which is called divine ſervice, as well private as publick; theſe two tributes are in ſuch manner divers and diſtinguiſhed, that the one hurts nothing the other, the Exchequer of God takes nothing from that of *Ceſar*, but each of them have their right manifeſtly apart. But to ſpeak in a word, whoſoever confounds theſe things, doth heaven and earth together, and endeavours to reduce them into their firſt chaos, or later confuſion. *David* hath excellently well diſtinguiſhed theſe affaires, ordaining officers to look to the right of God, and others for that of the King. *Joſephat* hath followed the ſame courſe, eſtabliſhing certaine perſons to judge the cauſes that belonged to the Almighty, and others to looke to the juſtice of the King; the one to maintain the pure ſervice of God, the other to preſerve the rights of the King. But if a Prince uſurpe the right of God, and put himſelfe

1 Chron. 26.29.
2 Chron. 19.11.

forward

forward after the manner of the Giants to ſcale the Heavens, he is no leſſe guilty of high treaſon to his Soveraigne, and commits felonie in the ſame manner, as if one of his vaſſals ſhould ſeize on the rights of his Crown, and puts himſelfe into evident danger to be diſpoyled of his eſtates, and that ſo much the more juſtly, there being no proportion between God and an earthly King, between the Almighty and a mortall man; whereas yet between the Lord and the vaſſell there is ſome relation of proportion. So often therefore as any Prince ſhall ſo much forget himſelfe, as inſolently to ſay in his heart I will aſcend into heaven, I will exalt my throne above the ſtars of God: I will ſit alſo upon the mount of the congregation in the ſides of the North; I will aſcend above the heights of the clouds, I will be like the moſt high. But on the contrary, will the Almighty ſay I will riſe up more high, I will ſet my ſelfe againſt thee; I will raze out thy name and all thy poſterity, thy counſels ſhall vaniſh into ſmoak, but that which I have once determined ſhall remaine firme, and never be annihilated. The Lord ſaid unto *Pharaoh*, *let my people goe, that they may ſerve me, and offer ſacrifice unto me*, and for that this proud man anſwered, that hee knew not the God of the Hebrews, preſently after he was miſerably deſtroyed. *Nebuchadnezar* commanded that his ſtatue ſhould be adored, and would be honoured as God, but within a ſhort time the true God did deſervedly chaſtiſe his unruly boldneſſe, and deſiring to be accounted God, he became a bruit beaſt, wandring through deſert places like a wild aſſe, untill (ſaith the Prophet) that he acknowledged the God of *Iſrael* to be the Soveraigne Lord over all, his ſonne *Belſhaſer* abuſed the holy veſſels of the Temple in *Jeruſalem*, and put them to ſerve his exceſſe and drunkenneſſe, for that therefore he gave not glory to him, that held in his hands both his ſoule and his counſels, he loſt his Kingdome, and was ſlaine in that very night of his feaſting *Alexander* the great took pleaſure in the lies of his Flatterers, who termed him the ſonne of *Jupiter*, and not only approv'd, but procur'd his adoration, but a ſudden death gave a ſad period to thoſe tryumphs, being blinded through his exceſſe of conqueſts, began with too much affection, to delight in *Antiochus*, under colour of pacifying and uniting his ſubjects, commanded all men to forſake the Lawes of God, and to apply themſelves in obedience to his: hee prophaned the Temple of the Jewes, and polluted their Altars, but after divers ruins, defeats, and loſſe of battels, diſpoyled, and diſgraced, he dies with griefe, confeſſing

Eſay 14. 13. 14.

Exo. 5. & 8. &c.

Dan. 3. 5. & 4. 25. &c.

Dan. 5. 2.

1 Macch. 1. 43.

Mac.6.12. 13. ſelfing that he deſervedly ſuffered thoſe miſeries, becauſe he would have conſtrained the Jewes to leave their Religion. If we take into our conſideration the death of *Nero*, that inhumane Butcherer of Chriſtians, whom he unjuſtly ſlandered with the fiering of *Rome*, being the abhorred act of his deteſted ſelfe. The end of *Caligula*, which made himſelfe to be adored, of *Domitian* which would be called Lord and God, of *Commodus*, and divers others which would appropriate to themſelves the honours due to God alone, we ſhall find that they have all and alwayes according to their deceits miſerably periſhed; when on the contrary, *Trajan*, *Adrian*, *Antonine* the courteous and others, have finiſhed their dayes in peace, for although they knew not the true God, yet have they permitted the Chriſtians the exerciſe of *their Religion*. Briefly, even as thoſe rebellious vaſſals which endeavour to poſſeſſe themſelves of the Kingdome, doe commit fellonie by the teſtimony of all Lawes, and deſerve to be extirpated; in like manner thoſe are as really guilty which will not obſerve the Divine Law, whereunto all men without exception owe their obedience, or which perſecute thoſe that deſire to conforme themſelves thereunto, without hearing them in their *juſt defences*; now for that we ſee that God inveſts Kings into their Kingdomes, almoſt in the ſame manner that vaſſals are inveſted into their fees by their Soveraigne, we muſt needs conclude, that Kings are the vaſſals of God, and deſerve to be deprived of the benefit they receive from their Lord if they commit felony, in the ſame faſhion as rebellious vaſſals are of their eſtates. Theſe premiſes being allowed, this queſtion may be eaſily reſolved; for if God hold the place of Soveraign Lord, and the King as vaſſall: who dare deny but that we muſt rather obey the Soveraign, then the vaſſall? If God commands one thing, and the King commands the contrary, what is that proud man that would terme him a rebell which refuſeth to obey the King, when elſe he muſt diſobey God. But on the contrary he ſhould rather be condemned, and held for truly rebellious, which omits to obey God, or which will obey the King when hee forbids him to yeeld obedience to God. Briefly, if God call us on the one ſide to enrole us in his ſervice, and the King on the other, is any man ſo void of reaſon as he will not ſay we muſt leave the King, and apply our ſelves to Gods ſervice: ſo farre be it from us to beleeve, that we are bound to obey a King, commanding any thing contrary to the Law of God, that contrarily in obeying him we become Rebels to God; no more, nor leſſe

then

then we would esteem a countrey man a Rebell, which for the love he beares to some rich and ancient inferiour Lord, would bear Armes against the Soveraigne Prince, or which had rather obey the writs of an inferiour Judge then of a superiour, the commandements of a Lieutenant of a Province, then of the Prince; to be briefe, the directions of an officer rather then the expresse Ordinances of the King himselfe. In doing this we justly incurre the malediction of the Prophet *Micha*, which doth detest and curse in the name of God all those which obey the wicked and perverse Ordinances of Kings. Bythe Law of God we understand the two Tables given to *Moses*, in the which, as in unremoveable bounds the authority of all Princes ought to be fixed. The first comprehends that which we owe to God, the second that which we must doe to our Neighbours; briefly, they containe piety and justice conjoyned with charity, from which the preaching of the Gospel doth not derogate, but rather authorise and confirme: The first Table is esteemed the principall, as well in order as in dignity. If the Prince commands to cut the throat of an innocent, to pillage and commit extortion, there is no man (provided he have some feeling of conscience) that would execute such a commandement. If the Prince have committed some crime, as Adultery, Parricide, or some other wickednesse, behold amongst the Heathen *the learned Lawyer* Papinian *which will reprove* Caracalla *to his face*, and had rather die then obey, when his cruell Prince commands him to lie and palliate his offence; nay, although hee threaten him with a terrible death, yet would he not beare false witnesse; what shall we then doe, if the Prince commands us to be Idolaters, if he would have us againe crucifie Christ Jesus, if he enjoyns to blaspheme and despite God, and to drive him (if it were possible) out of Heaven, is there not yet more reason to disobey him, then to yeeld obedience to such extravagants commands: Yet a little further, seeing it is not sufficient to abstaine from evill, but that we must do good, instead of worshipping of Idols, wee must adore and serve the true God, according as he hath commanded us, and instead of bending our knees before *Baal*, we must render to the Lord the honor and service which he requires of us; for wee are bound to serve God for his owne sake only: but we honour our Prince, and love our Neighbour, because and for the love of God. Now if it be ill done to offend our neighbour, and if it be a capitall crime to rise against our Prince, how shall we intitle those that rise in rebellion against the Majesty of the Soveraigne Lord of all Mankind briefly,

Mich. 6. 16.

There is a certaine *Politician* of our time so detestable, that he hath dared to condemne *Papinian*, and to write in his books full of errors in matter of state, that *Papinian* because he would not excuse the paracide of *Caracalla* did bring irreparable damages to the affairs of the Empire.

as it is a thing much more grievous to offend the Creator, then the creature, man, then the Image he repreſents; and as in terms of Law, he that hath wounded the proper perſon of a King, is much more culpable, then another that hath only broken the ſtatue erected in his memory: ſo there is no queſtion, but a much more terrible puniſhment is prepared for them, which infringe the firſt Table of the Law, then for thoſe which only ſinne againſt the ſecond; although the one depend of the other; whereupon it followes (to ſpeake by compariſon) that we muſt take more carefull regard to the obſervation of the firſt, then of the ſecond. Furthermore, our Progenitors examples may teach us the rule we muſt follow in this caſe. King *Ahab* at the inſtigation of his wife *Jeſabel*, killed all the Prophets, and ſervants of God that could be taken, not-
1 King. 18. 4. withſtanding *Abdias* Steward of *Ahabs* houſe did both hide and feed in a Cave a hundred Prophets, the excuſe for this is ſoon ready; in obligations, oblige they never ſo neerly, the divine Majeſty muſt alwayes be excepted. The ſame *Ahab* enjoyned all men to ſacrifice to *Baal*: *Elias* inſtead of couling or relenting did reprove more freely the King, and all the people, convinced the Prieſts of *Baal* of their impiety, and cauſed them to be executed. Then in diſpite of that wicked and furious *Jeſabel*, and manger that uxorious King, he doth redreſſe and reform with a divine and a power-
1 King. 18. 17. full endeavour the ſervice of the true God. When *Ahab* reproached him (as the Princes of our times doe) that he troubled *Iſrael*, that he was rebellious, ſeditious, titles wherewith they are ordinarily charged, which are no way culpable thereof; nay, but it is thou thy ſelfe, anſwered *Elias*, which by thy Apoſtaſie hath troubled *Iſrael*, which hath left the Lord the true God, to acquaint thy
Dan. 3. 18 & 6. 10. 13 ſelfe with ſtrange gods his enemies, in the ſame manner and by the leading and direction of the ſame ſpirit did *Sidrac*, *Miſack*, and *Abednego* refuſe to obey *Nebuchadnezzar*, *Daniel Darius*, *Eleazar*
Act. 4. 19. *Antiochus*, and infinit others. After the comming of Jeſus Chriſt, it being forbidden the Apoſtles to preach the Goſpel. Judge ye, (ſaid they) whether it be reaſonable as in the ſight of God to obey men, rather then God; according to this the Apoſtles, not regarding neither the intendments nor deſigns of the greatneſſe of the world, addreſſed themſelves readily to doe that which their Maſter Jeſus Chriſt had commanded them. The Jewes themſelves would not permit that there ſhould be ſet up in the Temple at *Jeruſalem* the Eagle of ſilver, nor the ſtatue of *Caligula*: what did *Ambroſe* when the Emperour *Valentinian* commanded him to give the Tem-

*Philo Iudeus* in his diſcourſe of his Embaſſage to *Cyrus*.

*S. Ambroſ.* in the Epiſt. 33.

ple

ple at *Millan* to the *Arrians*? *Thy Counſellors and Captains are come unto me*, ſaid he, *to make me ſpeedily deliver the Temple, ſaying it was done by the Authority and command of the Emperor, and that all things are in his power.* I anſwered to it, *That if he demanded that which is mine, to wit, mine inheritance, my money, I would not in any ſort refuſe it him, although all my goods belong properly to the poore, but the things divine are not in ſubjection to the power of the Emperor.* What doe we think that this holy man would have anſwered, if he had been demanded whether the living Temple of the Lord ſhould be enthrawled to the ſlavery of Idols. Theſe Examples, and the conſtancy of a million of Martyrs, which were glorious in their deaths, for not yeilding obedience in this kinde, according as the Eccleſiaſticall Hiſtories, which are full of them, do demonſtrate, may ſufficiently ſerve for an expreſſe Law in this caſe. But for all this we have no want of a Law formerly written: For as often, and ever as the Apoſtles admoniſh Chriſtians to obey Kings and Magiſtrates, they doe firſt exhort, and as it were by way of advice, admoniſh every one to ſubject himſelf in like manner to God, and to obey him before and againſt any whatſoever, and there is no where to be found, in any of their writings, the leaſt paſſage for this unlimitted obedience, which the flaterers of *Princes* do exact from men of ſmal underſtandings. *Let every ſoule*, ſaith Saint *Paul*, *be ſubject to the higher powers, for there is no power but of God*: he makes mention of every ſoul, to the end it may not be thought, that he would exempt any from this ſubjection; we may eaſily gather by divers ſuch ſpeeches, that we muſt obey God rather than the King: For if we obey the King, becauſe, and for the love of God certainly this obedience may not be a conſpiracy againſt God, But the Apoſtle wil ſtop the gap to all ambiguity in adding that the Prince is the ſervant of God for our good, to wit, to doe juſtice; from this neceſſarily follows that which we come from touching, that we muſt rather obey God then him who is his ſervant: This doth not yet content Saint *Paul* for he adds in the end, *Give tribute, honour, and feare to whom they appertaine*, as if hee ſhould ſay, that which was alledged by Chriſt, *Give to Cæſar that which is Cæſars, and to God that which is Gods*: To *Cæſar* tribute, and honour; to *God* feare. Saint *Peter* ſaith the ſame, *feare God, honour the King; Servants obey your Maſters not only the good and kinde, but alſo the rigorous*, we muſt practice theſe precepts according to the order they are ſet downe in: to wit, that as

Rom. 13. 1.

Math. 22. 21. 1 pet. 2. 17. 18.

ſervants are not bound to obey their Maſters if they command any thing which is againſt the lawes and ordinances of Kings: Subjects in like manner owe no obedience to Kings which wil make them to violate the Law of God.

1 Object. Certaine leud companions object, *that even in the things themſelves that concern the Conſcience wee muſt obey Kings, and are ſo ſhameleſſe as to produce for witneſſe of ſo wicked an opinion the Apoſtle Saint* Peter *and Saint* Paul, *concluding from hence, that we muſt yeeld obedience to all that the King ſhall ordaine, though it be to imbrace, without reply, any Superſtition he ſhall pleaſe to eſtabliſh.* But there is no man ſo groſly voyde of ſenſe, that ſees not the impiety of theſe men. we reply: that Saint *Paul* ſaith in expreſſe termes, we muſt be ſubject to Princes, not only for wrath, but alſo for conſcience ſake. In oppoſing conſcience to wrath, it is as much as if the Apoſtle had ſaid, that the obedience of which he ſpeaks ought not to proceed for feare of puniſhment, but from the love of God, and from the reverence which we are bound to beare unto the word, in the ſame ſence Saint *Paul* enjoyneth ſervants in ſuch manner to obey their Maſters, that it be not with eye ſervice for feare of ſtripes, but in ſingleneſſe of heart, fearing God, not ſimply, to acquire the favour of men, whom they may delude, but to bear the burden laid on their ſhoulders, by him whom no man can deceive.

Rom 1. 35.

Col. 3. 22.

In brieſe there is manifeſt difference between theſe two manners of ſpeech, to obey for conſcience ſake, and to obey in thoſe thing which concerne the conſcience: otherwayes thoſe which had much rather looſe their lives with infinite torments then obey Princes which command them things contrary to the will of God, would have taught us that which theſe ſeek to perſwade us to. Neither doe they expreſſe themſelves leſſe impudent in that which they are accuſtomed to object to thoſe which are not ſo well able to anſwer them. That obedience is better than ſacrifice, for there is no Text in holy writ that doth more evidently confound them then this, which is contained in *Samuels* reprehenſion of King *Saul*, for his diſobedience to the Commandement of God, in ſacrificing unfittingly. If then *Saul* although he were a King ought to obey God, it follows in all good conſequence that ſubjects are not bound to obey their King by offending of God. Briefly, thoſe (which after the barbarous manner of the men of *Calcut*) ſeek to inthrall the ſervice of God with a neceſſary dependance

2 Object.

1 Sam. 15. 22.

on

on the will of a mutable man, and Religion of the good pleasure of the King, as if he were some God on earth, they doubles little value the testimony of holy Writ. But let them (at the least) yet learn of a Heathen Orator. *That in every publique state, there is certain degrees of duty, for those that converse and live in it, by which may appear wherein the one are obliged to the other. Insomuch that the first part of this duty belongs to the immortall God, the second concerns the Country, which is their common Mother, the third, those which are of our blood, the other parts leading us step by step to our other Neighbours.* Cicero in the first book of offic.

*Now although the crime of High Treason be very heinous, yet according to the Civilians, it alwaies follows after sacriledge, an offence which properly pertaines to the Lord God and his service, insomuch that they do confidently affirm, that the robbing of a Church, is by their rules esteemed, a greater crime, than to conspire against the life of a Prince.* l. 2. ad leg. Jul. majest, Digest. Thus much for this first Question, wherein we perswade our selves, that any man may receive satisfaction, if he be not utterly voyd of the fear of God.

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## The second Question,

*Whether it be lawfull to resist a Prince which doth infringe the Law of God, or ruine his Church, by whom, how, and how far it is lawfull.*

THis Question seems at the first view to be of a high and difficult nature, for so much as there being small occasion to speak to Princes that fear God: On the contrary, there will be much danger to trouble the ears of those which acknowledge no other Sovereign but themselves, for which reason few or none have medled with it, and if any have at all touched it, it hath been but as it were in passing by. The Question is, *If it be lawfull to resist a Prince violating the Law of God, or ruinating the Church, or hindring the restoring of it?* If we hold our selves to the tenure of the holy Scripture, it will resolve us. For, if in this case it have been lawfull to the Jewish people (the which may be easily gathered from the books of the Old Testament) yea, if it have been injoyned them, I beleeve it will not be denyed, that the same must be allowed to the whole people of any Christian Kingdom or Country whatsoever. In the first place it must be considered, that God having chosen *Israel* from amongst all the Nations of the Earth, to be a peculiar people to him, and covenanted with them, that they should be the people of God. This is written in divers places of *Deuteronomy*: the substance and tenor of this alliance was, *That all should be carefull in their severall lines, tribes, and families in the land of Canaan, to serve God purely, who would have a* Deut. 7. 6. & 14. 2.

Church

*Church eſtabliſhed amongſt them for ever*, which may be drawn from the teſtimony of divers places, namely that which is contained in the 27 Chap. of *Deuteronomy*, there *Moſes* and the Levites covenanting as in the name of God, aſſembled all the people, and ſaid unto them: *This day Oh Iſrael art thou become the people of God, obey you therfore his voyce, &c. And Moſes ſaid, when thou haſt paſſed the River of Jordan, thou ſhalt ſet ſix Tribes on the mountain of Gerizzim on the one ſide, and the ſix other on the Mountain of Eball, and then the Levites ſhall read the Law of God, promiſing the obſervers all felicity, and threatning woe and deſtruction to the breakers thereof, and all the people ſhall anſwer, Amen.* The which was afterwards performed by *Joſhua*, at his entring into the Land of *Canaan*, and ſome few days before his death. We ſee by this that all the people is bound to maintain the law of God to perfect his Church: and on the contrary to exterminate the Idols of the land of *Canaan*, a Covenant which can no wayes appertain to particulars, but only to the whole body of the people. To which alſo it ſeems the incamping of all the Tribes round about the Ark of the Lord, to have reference, to the end that all ſhould look to preſervation of that which was committed to the cuſtody of all. Now for the uſe and practiſe of this Covenant wee may produce examples, the Inhabitants of *Gabaa* of the Tribe of *Benjamin* raviſhed the wife of a *Levite*, which died through their violence. The *Levite* divided his wife into twelve peeces and ſent them to the twelve Tribes, to the end that all the people together might wipe away this ſo horrible a crime committed in *Iſrael*. All the people met together at *Mizpah* and required the *Benjamites* to deliver to be puniſhed thoſe that were culpable of this enormious crime, which they refuſed to performe, wherefore with the allowance of God himſelfe, the ſtates of the people with an univerſall conſent renounce and make war againſt the *Benjamites*, and by this means the authority of the ſecond Table of the Law was maintained by the detriment and ruine of one entire Tribe which had broken it in one of the precepts. For the firſt we have an example ſufficiently manifeſt in *Joſhua*. After that the *Rubenites*, *Gadites*, & *Manaſſites* were returned into their dwellings beyond *Jordan*, they incontinently built a goodly Alter neer unto the river, this ſeems to contrary the commandement of the Lord, who expreſly forbids to ſacrifice any where but in the land of *Canaan* only, wherefore it was to be feared leaſt theſe men intended to ſerve Idols. This buſineſſe being communicated to the people, inhabiting on this ſide *Jordan*: the place aſſigned for the meetings of the States was at

Joſ. 5. 24. & 24. 20. &c.

Judg. 19, 20.

Joſ. 22

*Silo*

*Silo* where the Arke of the Lord was. They all accordingly met, and *Phineas* the High-Prieſt the ſon of *Eleazer* was ſent to the other to treate with them concerning this offence committed againſt the Law: And to the end they might know all the people had a hand in this buſineſſe, they ſent alſo the principall men of every Tribe to complain that the ſervice of God is corrupted, by this deviſe, that God would be provoked by this rebellion, and become an enemy, not only to the guilty, but alſo to all *Iſrael*, as heretofore in *Beelphegor*. Briefly that they ſhould denounce open warre againſt them if they deſiſted not from this their manner of doing: There muſt of neceſſity have followed much miſcheife, if thoſe Tribes beyond *Jordan* had not proteſted, that they erected that Alter only for a memoriall that the *Iſraelites* both on the one and the other ſide of *Jordan*, both did and do profeſſe one and the ſame Religion: and at all times whenſoever, they have ſhewed themſelves negligent in the maintenace of the ſervice of God, wee have ſeene that they have ever been puniſhed: This is the true cauſe wherefore they loſt two battels againſt the *Benjamites* according as it appeares in the end of the booke of *Judges*, for in ſo carefully undertaking to puniſh the rape and outrage don to a particular perſon, they clearly convinced themſelves of much negligent prophaneſſe in the maintenance of Gods right, by their continually negligence, omiſſion to puniſh both corporall and ſpirituall whoredomes, there was then in theſe firſt times ſuch a Covenant between God and the People.

Now after that Kings were given unto the people, there was ſo little purpoſe of diſannulling or disbanding the former contract, that it was renewed and confirmed for ever. Wee have formerly ſaid at the Inaugurating of Kings, there was a double Covenant treated of, to wit, *between God, and the King; and betweene God, and the People.* The agreement was firſt paſſed between *God, the King, and the People*: Or between *the High-Prieſt the People*, (which is named in the firſt place in the 23 Chapter in the 2 booke of the *Chronicles*) *and the King.* The intention of this was, that the *people ſhould be the people of God*, (which is as much as to ſay) *that the people ſhould be the church of God*, we have ſhewed before to what end God contracted Covenants with the King: Let us now conſider wherfore alſo he allies himſelfe with the people. It is a thing moſt certaine, that God hath not

*A covenant betweene God the king & the people.* 2 king. 11. 17. & 23. 3. 2 chron. 23 16.

done this in vain, and if the people had not *authority to promiſe, and to keep promiſe*, it were vainly loſt time to contract or Covenant with them. It may ſeem then that God hath done like thoſe creditors, which having to deale with not very ſufficient borrowers, take divers joyntly bound for one and the ſame ſum, inſomuch as two or more being bound one for another and each of them apart, for the intire payment of the totall ſum, he may demand his whole debt of which of them he pleaſeth. There was much danger to commit the cuſtody of the Church to one man *alone*, and therefore God did recommend, and put it in truſt *to all the people*: The King being raiſed to ſo ſlippery a place might eaſily be corrupted, for feare leaſt the Church ſhould ſtumble with him, God would have the people alſo to be reſpondents for it. In the Covenant of which we ſpeak, *God*, or (in his place) the *High-Prieſt*, are ſtipulators, the King and all the people, to wit, *Iſrael*, doe joyntly and voluntarily aſſume, promiſe, and oblige themſelves for one and the ſame thing. The High-Prieſt demands if they promiſe that the people ſhall bee the people of God, that God ſhall always have his Temple, his Church amongſt them, where he ſhall be purely ſerved, The King is reſpondent, ſo alſo are the people (the whole body of the people repreſenting as it were the office and place of one man) not ſeverally, but joyntly, as the words themſelves make cleare, being incontinent, and not by intermiſſion or diſtance of time the one after the other. We ſee here then two undertakers, the *King* and *Iſrael*, which by conſequent are bound one for another and each for the whole. For as when *Gajus* and *Titius* have promiſed joyntly to pay to their Creditor *Seius* a certaine ſum, each of them are bound for himſelfe and his companion, and the Creditor may demand the ſum of which of them he pleaſeth. In the like manner the *King* for himſelfe, and *Iſrael* for it ſelfe are bound with all circumſpection to ſee that the Church be not damnified, if either of them be negligent of their Covenant, God may juſtly demand the whole of which of the two he pleaſeth, and the more probably of the people then of the King, and for that many cannot ſo eaſily ſlip away as one, and have better meanes to diſcharge the debts then one alone. *In like manner, as when two men that are indebted, eſpecially to the publike Exchequer, the one is in ſuch manner bound for the other, that he can*

L. Mortuo 22. D. de fidei com. L. ſi non ſinguli C. ſi cert. Pet. L. penult. D. de duo reis 2 & 3. ſect. 1. D. eodem.

L. cum pol. D. de cenſib. & ibi doctores.

take

*take no benefit of the diviſion granted; by the new Conſtitutions of Juſtinian: So likewiſe the King and Iſrael promiſing to pay tribute to God, which is the King of Kings, for accompliſhment whereof, the one is obliged for the other. And as two Covenanters by promiſe, eſpecially in connexis, the obligation whereof expoſeth the Obligees to forfeitures and hazards, ſuch as this is here, the failings of the one indammageth the other: ſo that if Iſrael forſake their God, and the King makes no account of it, he is juſtly guilty of Iſraels delinquency. In like manner, if the King follow after ſtrange gods, and not content to be ſeduced himſelf, ſeeks alſo to attract his Subjects, endeavouring by all means to ruine the Church, if Iſrael ſeek not to withdraw him from his rebellion, and contain him within the limits of obedience, they make the fault of their King, their own tranſgreſſion.* Briefly, as when there is danger that one of the debtors by conſuming his goods may be diſabled to give ſatisfaction, the other muſt ſatisfie the creditors who ought not to be endamaged, though one of his debtors have ill husbanded his eſtate, this ought not to be doubted in regard of *Iſrael* toward their King, and of the King towards *Iſrael* in caſe one of them apply himſelfe to the ſervice of Idols, or breake their Covenant in any other ſort, the one of them muſt pay the forfeiture and be puniſhed for the other. Now that the Covenants of which we at this time treat, is of this nature, it appeares alſo by other teſtimonies of Holy Scripture. *Saul* being eſtabliſhed King of *Iſrael*, *Samuel* Prieſt and Prophet of the Lord, ſpeakes in this manner to the people. *Both you and your King which is over you ſerve the Lord your God, but if you perſevere in malice* (he taxeth them of malice for that they preferred the government of a man before that of God) *you and your King ſhall periſh*, He adds after the reaſon, *For it hath pleaſed God to chuſe you for his people.* You ſee here both the parties evidently conjoyned in the condition and the puniſhment: In like manner *Aſa* King of *Judah*, by the counſel of the Prophet *Azarie*, aſſembleth all the people at *Jeruſalem*, to wit, *Juda* and *Benjamin*, to enter into Covenant with God. Thither came alſo divers of the Tribe of *Ephraim*, *Manaſſes*, and *Simeon*, which were come thither to ſerve the Lord according to his own ordinance After the ſacrifices were performed according to the Law, the Covenant was contracted in theſe termes, *Whoſoever ſhall not call upon the Lord God of* Iſrael, *be he the leaſt or the greateſt, let him dye the death.* In making mention of the greateſt, you ſee that the King himſelfe is not excepted from the deſigned puniſhment.

L. cum apparebit, D. locati. L. ſi diviſa. C. eodem.

1 Sam. 12. 14. 25.

2 king. 23. 2. But who may puniſh the King (for here is queſtion of corporall and temporall puniſhmeut?) If it be not the whole body of the people to whom the King ſweareth and obligeth himſelfe, no more nor leſſe, than the people doe to the King, 2Chron. 4. 29. we read alſo that King *Joſias* being of the age of twenty and five yeares, together with the whole people, doth make a Covenant with the Lord, the King and the People promiſing to keepe the Lawes, and Ordinances of God, and even then for the better accompliſhing of the tenour of this agreement, the Idolatry of *Baall* was preſently deſtroyed. If any will more exactly turne over the holy Bible, he may well finde other teſtimonies to this purpoſe.

But to what purpoſe ſhould the conſent of the people be required, wherefore ſhould *Iſrael* or *Juda* be expreſly bound to obſerve the Law of God? for what reaſon ſhould they promiſe ſo ſolemnly to be for ever the people of God? If it be denied, by the ſame reaſon that they had any authority from God, or power to free themſelves from perjury, or to hinder the ruine of the Church. For to what end ſhould it ſerve to cauſe the people to promiſe to be the people of God, if they muſt, and are bound to endure and ſuffer the King to draw them after ſtrange Gods. If the people be abſolutly in bondage wherefore is it commanded then, to take order that God be purely ſerved? if it be ſo that they cannot properly oblige themſelves to God, and if it be not lawfull for them by all to indeavour the accompliſhment of their promiſe, ſhall we ſay that God hath made an agreement with them, which had no right neither to promiſe, nor to keep promiſe? But on the contrary, in this buſineſſe of making a Covenant with the people, God would openly and plainly ſhow, that the people hath right to make, hold, and accompliſh their promiſes and contracts. For, if he be not worthy to be heard in publique Court that will bargaine or contract with a ſlave, or one that is under tutillage, ſhall it not be much more ſhamefull to lay this imputation upon the Almighty, that he ſhould contract with thoſe which had no power to performe the conditions covenanted? But for this occaſion it was, that when the Kings had broken their Covenants, the Prophets always addreſſed themſelves to the houſe of *Juda* and *Jacob*, and to *Samaria*, to advertiſe them of their duties. Furthermore, they required the people that they not only with-

l. quod attinet. 32. 1. D. de reg. jur.

with-draw themſelves from ſacrificing to *Baal*, but alſo that they caſt down his Idoll, and deſtroy his Prieſts and ſervice; yea, even *maugre the King* himſelfe. For example, *Ahab* having killed the Prophets of God, the Prophet *Elias* aſſembleth the people, and as it were convented the Eſtates, and doth there taxe, reprehend, and reprove every one of them; the people at his exhortation doe take and put to death the Prieſts of *Baal*. And for ſo much as the King neglected his duty, it behoved *Iſrael* more carefully to diſcharge theirs without tumult, not raſhly, but by *publicke authority*, the Eſtates being aſſembled, and the equity of the cauſe orderly debated, and ſufficiently cleared before they came to the execution of juſtice. On the contrary, ſo often, and always when *Iſrael* hath fayled to oppoſe their King, which would overthrow the ſervice of God, that which hath been formerly ſaid of the two Debtors, the inability and ill husbandry of the one doth ever prejudice the other, the ſame hapned to them; for as the King hath been puniſhed for his Idolatry and Diſloyaltie, the people have alſo beene chaſtiſed for their negligence, connivencie, and ſtupidity, and it hath commonly hapned, that the Kings have bin much more often ſwarved, and drawn others with them then the people, for ſo much as ordinarily the great ones mould themſelves into the faſhion of the King, and the people conforme themſelves in humours to thoſe that governe them: to be briefe, all more uſually offend after the example of one, then that one will reform himſelfe as he ſeeth all the reſt. This which we ſay will perhaps appeare more plainly by examples; what doe we ſuppoſe to have been the cauſe of the defeat and overthrow of the Army of *Iſrael* with their King *Saul*. Doth God correct the people for the ſinnes of the Prince? Is the child beaten inſtead of the Father? It is a diſcourſe not eaſily to be digeſted, ſay the Civilians, to maintain that the children ſhould bear the puniſhments due for the offences of their Fathers; the Laws doe not permit that any one ſhall ſuffer for the wickedneſſe of another. Now God forbid that the Judge of all the world (ſaith *Abraham*) ſhould deſtroy the innocent with the guilty: On the contrary (ſaith the Lord) as the life of the Father, ſo the life of the ſonne is in my hands; the fathers ſhall not be put to death for the children, neither ſhall the children be put to death for the fathers; every man ſhall be put to death for his own ſinne, That overthrow then, did it not proceed for that the people oppoſed not

1 Sam. 31.

Gen. 18. 25. Deut. 24. 16. 2 King. 14 6. Ezech. 18. 20.

*Saul*,

*Saul*, when he violated the Law of God; but applauded that miserable Prince when he wickedly persecuted the best men, as *David* and the Priests of the Lord. Amongst many other examples let us onely produce some few. The same *Saul* to enlarge the possessions of the tribe of *Juda* broke the publick faith granted to the *Gibeonites*, at the first entry of the people into the land of *Canaan*, and put to death as many of the *Gibeonites* as hee could come by. By this execution *Saul* did break the third Commandement, for God had been called to witnesse this agreement, and the sixt also, in so much as he murthered the innocent, he ought to have maintained the authority of the two Tables of the Law; and thereupon it is said, that *Saul* and his house have committed this wickednesse. In the mean time, after the death of *Saul*, and *David* being established King, the Lord being demanded, made answer, that it was already the third yeare that the whole country of *Israel* was afflicted with famine, because of this cruelty, and the hand of the Lord ceased not to strike, untill that seven men of the house of *Saul* were given to the *Gibeonites*, who put them to death; seeing that every one ought to bear his own burden, and that no man is esteemed the inheritor of anothers crime; wherefore they say, that all the whole people of *Israel* deserves to be punished for *Saul*, who was already dead, and had (as it might seem) that controversie buried in the same grave with him, but only in regard that the people neglected to oppose a mischiefe so publick and apparent, although they ought and might have done it: Think you it reason, not any be punished unlesse they deserve it? And in what hath the people here fayled, but in suffering the offence of their King. In like manner when *David* commanded *Joab*, and the Governors of *Israel* to number the people, he is taxed to have committed a great fault; for even as *Israel* provoked the anger of God in demanding a King, one in whose wisdom they seemed to repose their safety: even so *David* did much forget himselfe, in hoping for victory through the multitude of his subjects; for so much as that is properly (according to the saying of the Prophet) to sacrifice unto their net, and burn incense unto their drag, a kind of abominable Idolatry; for the Governors, they seeing that it would draw evill on the people, a little drew back at the first; afterwards, as it were, to be rid of the importunity they made the enrolement: in the mean season all the people are punished, and not *David* alone, but also

2 Sam. 21. 1.

*L. crimen. 26. D. de pœnis*

*L. Sancimus c. de pœnis.*

1 Sam. 24. 2.

2 Chron. 21. 2.

Abacuc. 1. 16.

alſo the ancients of *Iſrael*, which repreſented the whole body of the people, put on ſack-cloath and aſhes, the which notwithſtanding was not done nor practiſed when *David* committed thoſe horrible ſinnes of murther and adultery. Who ſees not in this laſt act, that all had ſinned, and that all ſhould repent; and finally that all were chaſtiſed, to wit *David* that had provoked God by ſo wicked a commandement, the Governors (as Peers and Aſſeſſors of the Kingdome, ought in the name of all *Iſrael* to have oppoſed the King) by their connivencie, and over weak reſiſtance; and all the people alſo which made their appearance to be enroled. God in this reſpect did like a chiefe Commander, or Generall of an army, he chaſtiſed the offence of the whole camp, by a ſudden alarum given to all, and by the exemplary puniſhments of ſome particulars to keep all the reſt in better awe and order. But tell me wherefore after that the King *Manaſſes* had polluted the Temple at *Ieruſalem*, doe we read that God not only taxed *Manaſſes*, but all the people alſo? was it not to advertiſe *Iſrael* one of the ſureties, that if they keep not the King within the limits of his duty, they ſhould all ſmart for it; for what meant the Prophet *Ieremy* to ſay, the houſe of *Iuda* is in ſubjection to the *Aſſirians*, becauſe of the impiety and cruelty of *Manaſſes*? but that they were guilty of all his offences, becauſe they made no reſiſtance: wherefore S. *Auſtin* and S. *Ambroſe* ſaid, *Herod* and *Pilat* condemned Jeſus Chriſt, the Prieſts delivered him to be crucified, the people ſeem to have ſome compaſſion, notwithſtanding all are puniſhed; and wherefore ſo? for ſo much as they are all guilty of his death, in that they did not deliver him out of the hands of thoſe wicked Judges, and Governors, there muſt alſo be added to this, many other proofes drawne from divers Authors for the further explication of this point, were it not that the teſtimonies of holy Scripture ought to ſuffice Chriſtians. Furthermore, in ſo much as it is the duty of a good Magiſtrate, rather to endeavour to hinder and prevent a miſchiefe, then to chaſtiſe the delinquents after the offence is committed, as good Phyſicians that preſcribe a diet to allay and prevent diſeaſes, as well as medicines to cure them: In like manner a people truly affected to true religion, will not ſimply conſent themſelves to reprove and repreſſe a Prince that would abolish the Law of God, but alſo will have ſpeciall regard, that through maliee and wickednesſe he innovate nothing that may hurt the ſame, or that in tract of time may

2 King 24. 4. 2 Chron. 33. 10. Ier. 15. 4.

S. *Auguſt.* upon Pſal. 82. *Ambro. in offic.*

corrupt

corrupt the pure ſervice of God; and inſtead of ſupporting publick offences committed againſt the divine Majeſty, thay will take away all occaſions wherewith the offenders might cover their faults; wee read that to have been practiſed by all *Iſrael* by a decree of Parliament in the aſſembly of the whole people, to remonſtrate to thoſe beyond *Iordan*, touching the Altar they had builded, and by the King *Ezechias*, which cauſed the braſen Serpent to be broken. It is then lawfull for *Iſrael* to reſiſt the King, which would overthrow the Law of God, and aboliſh his Church, and not only ſo, but alſo they ought to know that in neglecting to performe this duty, they make themſelves culpable of the ſame crime, and ſhall beare the like puniſhment with their King.

If their aſſaults be verball, their defence muſt be likewiſe verball, if the ſword be drawn againſt them, they may alſo take armes, and fight either with tongue or hand, as occaſion is: yea, if they be aſſailed by ſurpriſalls, they may make uſe both of ambuſcadoes, and countermines, there being no rule in lawfull war, that directs them for the manner, whether it be by open aſſailing their enemy, or by cloſe ſurpriſing, provided alwayes, that they carefully diſtinguiſh between advantagious ſtratagems, and perfidious Treaſon, which is alwayes unlawfull.

Auguſt. in Joſh. 23. q. 2.

But I ſee well, here will be an objection made, what will you ſay? That a whole people, that beaſt of many heads, muſt they run in a mutinous diſorder, to order the buſineſſes of the Commonwealth? What addreſſe or direction is there in an unruly and unbridled multitude? what counſell or wiſdome, to manage the affaires of State?

Dominus l. 1. D. de dolo malo

When we ſpeak of all the people, we underſtand by that, only thoſe which hold their authority from the people, to wit, the Magiſtrates, which are inferiour to the King, and whom the people hath ſubſtituted, or eſtabliſhed, as it were Conſorts in the Empire, and with a kind of Tribunitiall authority, to reſtrain the encroachments of Sovereignty, and to repreſent the whole body of the people. We underſtand alſo, the Aſſembly of the Eſtates, which is nothing elſe but an Epitomy, or briefe collection of the Kingdome, to whom all publique affaires have ſpeciall and abſolute reference, ſuch were the Seventy Ancients in the Kingdome of *Iſrael*, amongſt whom the High Prieſt was as it were preſident, and they judged all matters of greateſt importance, thoſe ſeventy being firſt choſen

What is to be underſtood by this word people.

ſen by ſix out of each Tribe, which came out of the land of Egypt, then the Heads or Governors of Provinces; In like manner the Judges and Provoſts of Towns, the Captains of thouſands, the Centurions and others which commanded over Families, the moſt valiant noble and otherwaies notable perſonages, of whom was compoſed the body of the States, aſſembled divers times as it plainly appears by the words of the holy Scripture. At the election of the firſt King which was *Saul*, all the Ancients of Iſrael aſſembled together at Rama. In like manner and all Iſrael was aſſembled, or all *Judah* and *Benjamin*, &c. Now it is no way probable that all the people one by one met together there. Of this ranck there are in every well governd Kingdom, the Princes, the Officers of the Crown, the Peers, the greateſt and moſt notable Lords, the Deputies of Provinces, of whom the ordinary body of the Eſtate is compoſed, or the Parliament, or the Diet, or other Aſſembly according to the different names uſed in divers Countries of the world, in which Aſſemblies the principall care is had both for the preventing and reforming either of diſorder or detriment in Church or Commonwealth. For as the Counſels of Baſil and Conſtance have decreed (and well decreed) that the univerſal Councel is in Authoritie above the Biſhop of Rome. As in like manner the whole Chapter may over-rule the Biſhop, the Vniverſitie, the Rector, the Court, the Preſident: Briefly he whoſoever he is that hath received authoritie from a Company, is inferior to that whole company, although he be ſuperior to any of the particular Members of it. Alſo is it without any ſcruple or doubt, that Iſrael which demanded and eſtabliſhed a King as Governor of the Publick muſt needs be above *Saul* eſtabliſhed at their requeſt, and for Iſraels ſake as it ſhall be more fully proved hereafter. And for ſo much as an orderly proceeding is neceſſarily required in all affairs diſcreetly addreſſed, and that it is not ſo probably hopefull that order ſhall be obſerved amongſt ſo great a number of people; yea, and that there oftentimes occurs occaſions which may not be communicated to a multitude, without manifeſt danger of the Common-wealth. We ſay, that all that which hath been ſpoken of priviledges granted, and right committed to the people, ought to be referred to the Officers and Deputies of the Kingdom: and all that which hath been ſaid of Iſrael, is to be underſtood of the Princes and Elders of Iſrael, to whom theſe things were granted and committed as the practice alſo hath verified.

1 Sam. 8. 4.

The Queen *Athalia* after the death of her ſon *Ahazia* King of

2 Chron. 23.

Judah, put to death all those of the royal bloud, except little *Joas*, which being yet in the cradle was preserved by the piety and wisedome of his Aunt *Iehoshabeah*. *Athalia* possesseth her self of the government, and reigned six year over Judah. It may well be the people murmured between their teeth, and durst not by reason of danger express what they thought in their minds. Finally, *Jehoida* the High-Priest the husband of *Jehoshabeah*, having secretly made a league and combination with the chief men of the Kingdom, did anoint and Crown King his Nephew *Joas*, being but seven year old, And he did not content himself to drive the Queen-Mother from the royal Throne, but he also put her to death, and presently overthrew the Idolatry of *Baal*. This deed of *Jehoiada* is approved, and by good reason, for he took on him the defence of a good Cause, for he assailed the Tyranny, and not the Kingdom. The Tyranny (I say) which had no Title, as our modern Civilians speak. For by no Law were women admitted to the government of the Kingdom of *Judah*. Furthermore, that Tyranny was in vigor and practice: For *Athalia* had with unbounded mischief and cruelty invaded the Realme of her Nephews, and in the administration of that Government committed, infinite wickedness, and which was the worst of all, had cast off the service of the the living God to adore and compel others with her the Idol of *Baal*. Therefore then was she justly punished, and by him which had a lawful calling and authority to do it. For *Jehoida* was not a private and particular person, but the High-Priest, to whom the knowledge of civil causes did then belong: And besides he had for his Associats the principal men of the Kingdom the Levites, and being himself the *Kings* kins-man and ally. Now for so much as he assembled not the estates at *Mizpah* according to the accustomed manner, he is not reproved for it, neither for that he consulted and contrived the matter secretly, for that if he had held any other manner of proceeding, the business must probably have failed in the execution and success.

*Bartol. de Tiranmid.* Deut. 17.15.

*Bartol. in tract. de Guelph. & Gibel.*

A combination or conjuration is good or ill according as the end whereunto it is addressed is good or ill; and perhaps also according as they are affected which are the managers of it. We say then that the Princes of *Judah* have done well, and that in following any other course they had failed of the right way. For even as the guardian ought to take charge and care that the goods of his pupil fall not into losse and detriment, and if he omit his duty therein, he may be compelled to give an account thereof; In like manner, those to whose

whose custody and tuition the people have committed themselves, and whom they have constituted their Tutors and defenders, ought to maintain them safe & intire in all their rights and priviledges. To be short as it is lawfull for a whole people to resist and oppose Tyranny; so likewise the principal persons of the Kingdom, may as heads and for the good of the whole body confederate and associate themselves together, and as in a publick State, that which is done by the greatest part is esteemed and taken as the act of all, so in like manner must it be said to be done which the better part of the most principal have acted, briefly that all the people had their hand in it. *Vlp. l. 160. D. de reg. jur.*

Whether part of a Kingdom may make resistance.

But here presents it self another question the which deserves to be considered, and amply debated in regard of the circumstance of time. Let us put the case that a King seeking to abolish the Law of God, or ruine the Church, that all the people or the greatest part yeild their consents, that all the Princes or the greatest number of them make no reckoning; and notwithstanding, a small handfull of people, to wit, some of the Princes and Magistrates desire to preserve the Law of God entirely and inviolably, and to serve the Lord purely: what may it be lawfull for them to do? if the King seek to compel those men to be Idolaters, or will take from them the exercise of true religion? We speak not here of private and particular persons considered one by one, and which in that manner are not held as parts of the entire body; As the planks, the nails, the pegs, are no part of the Ship, neither the stones, the rafters, nor the rubbish are any part of the house: but we speak of some Town or Province, which makes a portion of a Kingdom, as the prow, the poop, the keel and other parts make a Ship: the foundation, the roof, and the walls make a house. We speak also of the Magistrate which governs such a Citie or Province. If we must make our defence with producing of examples, although we have not many ready by reason of the backwardness and carelesness of men when there is question to maintain the service of God: notwithstanding, we have some few to be examined and received according as they deserve. *Libna*, a Town of the Priests withdrew it self from the obedience of *Joram* King of *Judah*, and left that Prince, because he had abandoned the God of his Fathers whom those of that Town would serve, and it may be they feared also lest in the end they should be compelled to sacrifice to *Baal*. In like manner when that the King *Antiochus* commanded that all the Jews should imbrace his religion, and should forsake that which the

Iohn 21. 13. 1 Chron. 6. 57. 2 Chron. 21. 10.

2 Mac 1. 43. & 2. 22. & 3. 43.

God Almighty had taught them, *Mattathias* answered, we will not obey, nor will we do any thing contrary to our religion, neither did he only speak, but also being transported with the zeal of *Phineas*, he killed with his own hands a Jew, which constrained his fellow Citizens to sacrifice to Idols; then he took arms and retired into the mountain, gathered troups, and made war against *Antiochus*, for Religion, and for his Countrie with such success, that he regained *Ierusalem*, brok and brought to nothing the power of the Pagans which they had gathered to ruine the Church, and then re-established the pure service of God. If we will know who this *Matthias* was, he was the Father of the *Machabees* of the Tribe of *Levi*; insomuch as it was not lawfull for him according to the received custome and right of his race to restore the Kingdom by arms from the Tyranny of *Antiochus*. His followers were such as fled to the mountains together, with the inhabitants of *Modin*, to whom had adjoyned themselves divers neighboring Jews, and other fugitives from sundry quarters of *Iudeah*; all which solicitously desired the re-establishment of the Church. Almost all the rest, yea, the principals obeyed *Antiochus*, and that after the rout of his army, and his own miserable death: Although there were then a fair occasion to shake off his yoke, yet the Jewes sought to the sonne of *Antiochus*, and intreated him to take on him the Kingdom, promising him fidelity and obedience. I might here produce the example of *Debora*. The Lord God had subjected *Israel* to *Iabin* King of *Canaan*, and they had remained in this servitude the space of twenty years, which might seem in some sort to have gained a right by prescription over the Kingdom; and together also that almost all *Israel* followed after strange gods. The principal and most powerful Tribes, to wit, *Reuben*, *Ephraim*, *Benjamin*, *Dan*, *Asher*, and some others adhered wholly to *Iabin*. Yet notwithstanding the Prophetess *Debora* which judged *Israel*, caused the Tribes of *Zebulon*, *Nephthalie*, and *Issachar*, or at the left some of all those Tribes, to take arms under the conduct of *Barac*, and they overthrew *Sisera* the Lieftenant of *Iabin*, and delivered *Israel*, which had no thought of liberty, and was content to remain in bondage; and having shaken off the yoke of *Canaaniets* they re-established the pure service of the living God. But for so much as *Debora* seems to have an extraordinary vocation, and that the Scripture doth not approve in expresse terms the doings of them of *Libna*, although that in not disallowing of their proceedings, it may seem

1. Mac. 2. 21. &c.

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in ſome ſort to allow them, and for that the Hiſtory of the *Machabees* hath had no great authoritie in the ancient Church and for that it is comonly held that an aſſertion muſt be proved by laws and teſtimonies, not by examples, let us examine by the effect what we ought to judge according to the right of the matter now in queſtion. We have formerly ſaid that the King did ſwear to keep the Law of God, and promiſe to the uttermoſt of his power to maintain the Church: that the people of *Iſrael* conſidered in one body covenanting by the High-Prieſt, made the ſame promiſe to God. Now at this preſent we ſay, that all the Towns, and all the Magiſtrates of theſe Towns which be parts and portions of the Kingdom, promiſe each of them in his own behalf, and in expreſs terms the which all Towns and Chriſtian Communalties have alſo done, although it have been but with a tacite conſent. *Ioſhua* being very old and near to his death, aſſembled all *Iſrael* at *Sichem* in the preſence of God, to wit, before the Ark of the Covenant which was there. It is ſaid that the Antients of the people, the Heads of the Tribe, the Judges and Governors, and all which had any publick command in the Towns of *Iſrael* met together there, where they ſwore to obſerve and keep the Law of the Lord. and did willingly put on the yoke of the Almighty God: whereby it appears that theſe Magiſtrates did oblige themſelves in the names of their Towns and Communalties which did ſend them to take order that God ſhould be ſerved throughout the whole Countrie, according as he had revealed in his Law. And *Joſhuah* for his part having paſſed this contract of agreement between God and the people and inregiſtred the whole according as it was done, for a perpetual memorial of the matter he incontinently ſet up a ſtone. Ioſuah 24.

If there were occaſion to remove the Ark of the Lord, The principals of the Countrey and Towns, the Captains the Centurions, the Provoſts, and others were ſummoned by the Decree and Commandment of *David*, and of the Synagogue of *Iſrael*, if there be a purpoſe of building the Lords Temple, the ſame courſe is obſerved. And to the end it be not ſuppoſed, that ſome alteration hath been inſerted after the creation of Kings: In the times of *Joas* and *Joſias*, when there was queſtion of renewing the Covenant between God and the People, all the Eſtates met together, and all were bound and obliged particularly. Alſo not onely the King, but the Kingdome, and not onely all the Kingdome, but 1 Chron. 15. 2 Chron. 5. 1 Kings 8. 1 Chron. 28. 2 Kings 11. 2 Kings 23. 2 Chron. 23.

but also all the Pastors of the Kingdom promise each of them for their selves, fidelity and obedience to God. I say again, that not only the King and the People, but also all the Towns of Israel, and their Magistrates, oblige themselves to God, and as homagers to their liege lord tie themselves to be his for ever, with and against all men, for further proof of the aforesaid, I would entreat the Reader to diligently turn over the holy Bible, especially in the books of the *Kings* and the *Chronicles*. But for a yet more ample explication of this matter, let us produce for example what is in practise at this day. In the Empire of *Germany*, when the Emperor is to be crowned, the Electors and Princes of the Empire, as well Secular as Ecclesiastical, meet together personally, or else send their Ambassadors. The Prelats, Earls, and Barons, and all the Deputies of the Imperial Towns, come thither also, or else send special Proxies; then do they their homage to the Emperor; either for themselves, or for them whom they represent, with and under certain conditions: Now let us presuppose that one of these which hath done homage voluntarily, do afterwards endevour to depose the Emperor, and advance himself into his place, and that the Princes and Barons deny their Soveraign the succors and tribute which they owe him, and that they have intelligence with that other which conspired and sought to possess himself of the Imperial Throne: Think you that they of *Straesborgh* or of *Nurembergh*, which have bound themselves by faith unto the lawful Emperor, have not lawful right to repress and exclude this trayterous Intruder? Yea, on the contrary, if they do it not, if they give not succors to the Emperor in this his necessity, think you that they have satisfied or performed their fealty and promise, seing that he which hath not preserved his Governour when he had means to do it, ought to be held as culpable and guilty, as he which offered the violence and injury unto him. If it be so (as every one may sufficiently see it is) is it not then lawful for the men of *Libna* and of *Modin*? and doth not their duty enjoyn them to do as much as if the other Estates of the Kingdom have left God to whose service and pleasure they know and acknowledge themselves to be bound to render obedience. Let us imagine then some *Ioram* or *Antiochus* which abolisheth true Religion, and lifts up himself above God, that *Israel* connives and is content, What should that Town do which desires to serve God purely? First, they should say with *Ioshua*, for their parts, look whom you desire rather to obey, the living God, or the Gods of the Amorites, for our parts we

L. 3. l. Omne delict. Sect. ult, D. de re mil.

Iosh. 24. 15.

we and our Families will ſerve the Lord. Chuſe you then I ſay, if you will obey in this point him, which without any right uſurps that power and authority which no way appertains unto him, for my part, hap what may, I will keep my faith to him to whom I promiſed it. I make no queſtion but that *Ioſhua* would have done the uttermoſt of his endeavour to maintain the pure ſervice of the living God in *Thamnathe Serathe*, a Town of *Ephraim*, where his houſe and eſtate lay; if the Iſraelites beſides had ſo much forgot themſelves as to have worſhipped the god of the Amorites in the land of *Canaan*. But if the King ſhould paſs yet further, and ſend his Lievtenants to compel us to become Idolaters, and if he commands us to drive God and his ſervice from amongſt us; Shall we not rather ſhut our gates againſt the King and his Officers, then drive out of our Town the Lord which is the King of kings? Let the Burgeſſes and Citizens of Towns, Let the Magiſtrates and Governours of the People of God dwelling in Towns, conſider with themſelves that they have contracted two Covenants, and taken two Oaths: The firſt and moſt ancient with God, to whom the People have ſworn to be his people: the ſecond and next following, with the King, to whom the people hath promiſed obedience, as unto him which is the Governour and Conductor of the people of God. So then, as if a Vice-Roy conſpiring againſt his Soveraign, although he had received from him an unlimitted authority, if he ſhould ſummon us to deliver the King whom he held beſieged within the incloſure of our walls, we ought not to obey him, but reſiſt with the uttermoſt of our power and means according to the tenour of our oath of Allegiance: In like manner think we that it is not a wickedneſs of all moſt deteſtable, if at the pleaſure of a Prince which is the vaſſal and ſervant of God, we ſhould drive God from dwelling amongſt us, or deliver him (as far as in us lieth) into the hands of his enemies. You will ſay, it may be that the Towns appertain to the Prince. And I anſwer, that the Towns conſiſt not of a heap of ſtones, but of that which we call people, that the people is the people of God, to whom they are firſt bound by oath: and ſecondly, to the King. For the Towns, although that the Kings have power over them, notwithſtanding the right of inheritance of the Soyl belongs to the Citizens and Owners, for all that which is in a Kingdom, is indeed under the Dominion of the King, but not of his proper Patrimony: God in truth is the onely Lord proprietor of all things, and it is of him that the King holds his

10 *Collat de forma Fidei, & c. 1. de nova fidel. form.*

*Senec. l. 7. de Benef. c. 6, 7. &c.*

his royalties, and the people their Patrimony. This is as much as to say, you will reply, that for the cause of Religion it shall be lawful for the subjects to revolt from the obedience of their King, if this be once granted, it will presently open a gap to rebellion? But hearken I pray you patiently, and consider this matter more throughly: I might answer in a word, that of two things, if the one must needs be done, it were much better to forsake the King, then God; or with S. *Augustine* in his fourth book of the Citie of God, chap. 4. and in the nineteenth book, and chapter the 21. That where there is no Justice, there is no Common-wealth, That there is no Justice, when he that is a mortal man would pull an other man out of the hands of the immortal God, to make him a slave of the devil, seing that Justice is a vertue that gives to every one that which is his own, and that those which draw their necks out of the yoke of such Rulers, deliver themselves from the Tyrannie of wicked spirits, and abandon a multitude of robbers, and not the Common-wealth. But to re-assume this discourse a little higher, those which shall carry themselves as hath been formerly said, seem no waies accusable of the crime of revolt. These are said properly to quit the King or the Common-wealth, which with the heart and purpose of an Enemy withdraw themselves from the obedience of the King or the Commonwealth, by means whereof they are justly accounted adversaries, and are oftentimes much more to be feared then any other enemies. But those of whom we now speak, do nothing resemble them. First they do in no sort refuse to obey, provided that they be commanded that which they may lawfully do, and that it be not against the honour of God. They pay willingly the Taxes, Customs, Imposts, and ordinary payments, provided that with these they seek not to abolish the tribute which they owe unto God. They obey *Cæsar* while he commands in the quality of *Cæsar*: but when *Cæsar* passeth his bounds, when he usurps that Dominion which is none of his own, when he endeavours to assail the Throne of God, when he wars against the soveraign Lord both of himself and the people; they then esteem it reasonable not to obey *Cæsar*: and yet after this to speak properly, they do no acts of hostility. He is properly an enemie which stirs up, which provokes another, which out of military insolencie prepareth and seteth forth parties to war. They have been urged and assailed by open war, and close and trecherous surprisalls: when death and destruction environs them round about, then they take armes, and wade

L. 5. D. de cap. minut.

their

their enemies assaults: you cannot have Place with your enemies when you will; for if you lay down your weapons, if you give over making Warre they will not for all that disarme themselves, and loose their advantage. But for these men, desire but place and you have it, give over but assayling them, and they will lay down their Armes, cease to fight against God, and they will presently leave the lists, will you take their Swords out of their hands? abstayne you only then from stricking, seeing they are not the assaylants, but the defendants, sheath your Sword, and they will presently cast their Buckler on the ground, which hath been the reason that they have been often surprized by perfideous ambuscadoes, whereof these our times have afforded over frequent examples. Now as we cannot call that servant stuborne or a fugitive, which puts by the blow, which his Lord stricks at him with his Sword, or which withdrawes or hides himselfe from his Masters fury, or shuts his Chamber dore upon him, untill his coler and heate be passedover, much lesse ought we to esteeme those seditions, which (holding the name and place of Servants and subjects) shut the gates of a City against their Prince, transported with anger, being ready to do all his just Commandements, after he hath recovered his judgement, and related his former indignation; we must place in this rank, *David* Commander of the Army of *Israel*, under *Saul*, a furious King. *David* oppressed with Calumnies and false Taxations, watched and way-layed from all parts, he retired unto, and defended himselfe in unaccessible Mountaines, and provided for his defence to oppose the walles of *Ceila* against the fury of the King, yea, he drew unto his party all those that he could, not to take away *Saules* life from him, as it plainly appeared afterwards; but to defend his own Cause: see wherefore *Ionathan* the Sonne of *Saul*, made no difficulty, to make alliance with *David*, and to renew it from time to time; the which is called the Alliance of the Almighty. And *Abbigall* saith in expresse words, that *David* was wrongfully assayled, and that he made the War of God. We must also place in this rank the Machabees; which having good meanes to maintaine Warres, were content to receive peace from king *Demetrius*, and others, which *Antiochus* had offered them before, because by it, they should be secured in the free profession and exercise of their Religion. We may remember that those which in our times have fought for true Religion against *Antichrist*, both in *Germanie* and *France*, have laid down Armes as soone as it was permitted them to serve God truely according to his Ordinance, and oftentimes having fayre meanes and occasion to advance and continue the War to their much advantage: as had *David* and the *Machabees*, where the *Philistins* constrained *Saul* to

1 *Sam.* 21.22. 2 *Sam.* 25.28.

*Macha.* 6. 60. &c.

leave *David* to looke to his own defence, and those Cloudes of neighbouring enemies in *Antiochus*, saw ready to dissolue upon his head, hindered him also from further pursuing the *Machabees*. See then the markes which distinguish and separate sufficiently, those of whom we speak from Rebels or seditions.

But let us yet see other evident testimonies of the equity of their cause; for their defection is of that nature, that take but away the occasion, if some extreame necessity compell not the contrary, they presently return to their former condition, and then you cannot properly say, they separated themselves from the King, or the Communality; but that they left *Ioram*, and *Antiochus*, or if you will, the Tyranny and unlawfull power of one alone, or if divers particulers, which had no authority nor right to exact obedience in the same manner, as they commanded. The Sorbonists Doctors have taught us the like sundry times: whereof we will alledge some examples.

*Annales Francia. Archiva Camerae Ratiocinorum. Lutetia.*

About the year 1300. Pope *Boniface* the 8 seeking to appropriate to his See, the copalties that belonged to the Crown of *France*: *Philip* the faire, the then King, doth taunt him somwhat sharply: the tenor of whose tart letters are these.

*Philip by the Grace of God, King of the French, to Boniface*, calling himselfe Soveraign Bishop, little or no health at all.

Be it known to the great foolishnesse and unbounded rashnesse, that in temporall matters we have only God for our superiour, and that the vacancy of certain Churches, and pretends belongs to us by copall prerogative, and that it appertaines to us onely to gather the fruites, and wee will defend the possession thereof against all opposers, with the edge of our Swords, accounting them fooles, and without brayons that hold a contrary opinion. In these times all men acknowledged the Pope for Gods Vicar on earth, and herd of the universal Church: In somuch, that (as it is said) common errour went instead of a Law, notwithstanding the Sorbonists being assembled, and demanded, made answer, that the King and the Kingdom might falsly without blame or danger of schisme, exempt themselves from his obedience, and flatly refuse that which the Pope demanded; for so much as it is not the separation: but the cause which makes the schisme, and if there were schisme, it should be only in separating from *Boniface*, and not from the Church, nor from the Pope, and that there was no danger nor offence in so remaining untill some honest man were chosen Pope. Every one knowes into what perplexities, the consciences of a whole Kingdom would fall, which held themselves separated from the Church, if this distinction be not true. I would demand

*L. Barber, Philip D. de Senat.*

mand now, if it be not yet more lawfull to make use of this distinction, when a King invades and incroacheth on the jurisdiction of God, and oppresseth with hand servitude, the soules dearly bought with the pretious blood of *Jesus Christ*. Let us adde another example.

In the year of our Lord 2408. when Pope *Benedict* the 13. did oppose the *French* Church by tributes, and exactions, the Clergy assembled; by the Command of King *Charles* the 6. decreed: that the King and Inhabitants of the Kingdom, ought not to obey *Benedict*, which was an Heritick, a schismatick, and altogether unworthy of that dignity: the which the Estates of the Kingdom approved, and the Parliament of *Paris* confirmed by a decree. The same Clergy also ordained that those which had been excommunicated by that Popes forsakers and enemies of the Church, should be presently absolved, nullifying all such excommunications, and this hath been practised not in *France* onely, but in other places also: as Histories do credibly report. The which gives us just occasion most perspicuously to see and know, that if he which holds the place of a Prince do govern ill, there may be a separation from him without incurring justly the blame of revolt; for that they are things in themselves directly contrary, to leave a bad Pope, and forsake the Church, a wicked King, and the Kingdom. To returne to those of *Lobna*, they seeme to have followed this before remembred expedient; for after the reestablishment of the service of God, they presently became again the subjects of King *Ezekias*. And if this distinction be allowed place, when a Pope incroacheth on the rights of any Prince, which notwithstanding in some cases acknowledgeth him for his Soveraign: Is it not much more allowable, if a Prince which is a Vassall in that respect, endeavours to assure and appropriate to himselfe the rights of God. Let us conclude then to end this discourse, that all the people by the authority of those, into whose hands they have committed their power, or divers of them may, and ought to reprove and represse a Prince, which Commands things against God. In like manner, that all, or at the least, the principalls of Provinces or Towns, under the authority of the chiefe Magistrates, established first by God, and secondly by the Prince, may according to Law and reason, hinder the entrance of Idolatry, within the inclosure of their walles, and maintain their true Religion: yea further, they may extend the Confines of the Church, which is but one, and in failing hereof, if they have meanes to do it: they justly incur the penaltie of High-Treason against the Divine Majesty.

*Annales of France monstrelet.*

*2 Kings 19. 8.*

*Extrau. de majo. & obed.*

*Whether private men may resist by Armes.*

It remaines now that we speak of particulers which are private per-

sons. First, particulars or private persons, are not bound to take up arms
*L. sicut 7, S. 1. D. quod cujusque vniversi.* gainst the Prince which would compell them to become Idolaters. The Cove-nant betweene God & all the people who promise to be the people of God, doth not in any sort bind them to that; for as that which belongs to the whole vniversall body, is in no sort proper to particulars: so in like manner that which the body owes and is bound to performe, cannot by any sencible reason be required of particular persons: neither doth their duty any thing obliege them to it; for every one is bound to serve God in that proper vocation, to which this called. Now private persons they have no power, they have no publik command, nor any calling to unsheath the sword of authority; And therefore as God hath not put the sword into the hands of privat men: so doth he not require in any sort that they should strike with it. It is said to them, *put up thy sword into thy scabberd.* *Mat. 26 52.* On the contrary the Apostle saies of Majestrates, they carry not the sword in vaine; If particuler men draw it *Rom. 13. 4.* forth, they make themselves Delinquents; If Majestrates be slow and negligent to use it when just occasion is offered, they are likewise justly blameable of negligence in performing their duties, and equally guilty with the former. But you will say unto me, hath not God made a Covenant, as well with particular persons as with the generality, with the least as well as the higest? To what purpose was Circumcision, and Baptisme ordained? What meaneth that frequent repetition of the Covenant in so many passages of holy writ? All this is true, but the consideration hereof is divers in their severall kinds; For as all the subjects of a good and faithfull Prince, of what degree soever they be are bound to obey him; but some of them notwithstanding have their particuler duty, as Magestrates must hold others in obedience, in like manner all men are bound to serve God; but some as they are placed in a higher rancke, have received greater authority in so much as they are accountable for the offences of others, if they attend not the charges of the Communalty carefully.

The Kings, the Communalties of people, the Majestrates into whose hands the whole body of the Common-wealth hath committed the sword of authority, must and ought to take care that the Church be maintained and preserved, particulars ought only to looke that they render themselves members of this Church. Kings and popular Estates are bound to hinder the polluton or ruine of the Temple of God, & ought to free and defend it from all corruption within, and all injury from without. Private men must take order that their bodies the temples of of God, be pure, that they may be fit receptacles for the Holy-ghost to

dwell

dwell in them. If any man defile the Temple of God, saith the Apostle, him shall God destroy; for the Temple of God is holy, which Temple ye are, to the former he gives the sword, which they beare with authority: to the other he recommends the sword of the spirit only, to wit, the word of God, wherewith St. *Paul* armes all Christians, against the assaults of the Divell, what shall then private men do? if the King will constraine them to serve Idolls? If the Magistrates into whose hands the people hath consigned their authority, or if the Magistrates of the place, where these particulers dwell, do oppose these proceedings of the King: let them in Gods name obey their leaders, and imploy all their meanes (as in the service of God) to ayd the holy and commendable enterprises of those, which oppose themselves lawfully, against his wicked intention. Amongst others, they have the examples of the Centurions, and men at armes, which readily and cheerfully obeyed the Princes of *Iuda*, who stirred up by *Iehoyda*, purged the Church from all prophanation, & delivered the Kingdom from the tyranny of *Athiliah*. But if the Princes, and Magistrates, approve the courses of an outragious and irreligious Prince, or if they do not resist him, we must lend our eares to the Councell of Jesus Christ, to wit, to retire our selves into some other place; we have the example of the faithfull mixed amongst the 10. Tribes of Israel, who seeing the true service of God aboliſhed by *Ieroboam*, and that none made any accompt of it, they retired themselves into the territories of *Iuda*, where Religion remained in her purity: let us rather forsake our livelihoods and lives, then God, let us rather be crucified our selves, then crucifie the Lord of life: feare not them (saith the Lord) which can only kill the body. He himselfe, his Apostles, and an infinite number of Christian martirs, have taught us this by their examples; shall it not then be permitted to any private person to resist by Armes? what shall we say of *Moses*, which lead *Israel* away in despite of King *Pharoah*? And of *Ehud*, which after 10. years servitude, when Israel might seeme to belong by right of prescription, to him which held the possession thereof, he killed *Eglon*, the King of *Moab*, and delivered *Israel* from the yoak of the *Moabites*, and of *Ieku*, which put to death his Lord the King *Ioram*, exterpated the race of *Ahab*, and distroyed the Priests of *Baall*, were not these particulers? I answer, that if they be considered in themselves, they may well be accounted particuler persons, insomuch as they had not any ordinary vocation; But seeing that we know that they were called extraordinarily, and that God himselfe hath (if we may so speak) put his sword into their hands, be it far from us to account them particuler or private persons; but rather let us esteeme them by many degrees, excelling any ordinary Magistrates whatsoever. The calling of *Moses*

1 *Cor.* 3. 17. & 6. 19.
*Ephes.* 6. 17.
*Mat.* 10. 23.
2 *Chron.* 11. 13. & 15. 9.
*Heb.* 6. 6.
*Mat.* 10. 28.
*Exod.* 12. &c.
*Iud.* 3. 16.
2 *Kings* 9.

approved by the expresse word of God, and by most evident miracles, it is said of *Ehud*, that God stirred him up to kill the Tyrant, and deliver *Israel*; for *Iehu*, he was anointed by the Commandement of the Prophet *Elizeus*, for to roote out the race of *Ahab*, besides, that the principall men saluted him King, before he executed any thing. There may as much be said of all the rest, whose examples are propounded in holy writ. But where God Almighty doth not speak with his own mouth, nor extraordinarily by his Prophets, it is there that we ought to be exceeding cautious, and to stand upon our guards; for if any supposing he is inspired by the Holy-Ghost, do attribute to himselfe the before mentioned authority, I would intreat him to looke that he be not puffed up with vaine glory, and least he make not a God to himselfe of his own fancy, and sacrifice to his own inventions, let him not then be conceived with vanity, least instead of fruite he bring forth deluding lies. Let the people also be advised on their parts, least in desiring to fight under the Banner of Jesus Christ, they run not to their own confusion to follow the Army of some Gallilean Thendas, or of *Barcozba*: as it happened to the Pesants and Anabaptists of *Munster*, in *Germany*, in the year 1323. I will not say, notwithstanding that the same God which to punish our offences, hath sent us in these our dayes, both *Pharoes* and *Ahabs*, may not sometimes raise up extraordinary deliverances to his people: certainly his justice and his mercy continue to all ages, firme and immutable. Now if these visible miracles appear not as in former times; we may yet at the least fall by the effects that God workes miraculously in our hearts, which is when we have our minds free from all ambition, a true and earnest zeale, a right knowledge, and conscience; least being guided by the spirit of errour or ambition, we rather make Idolls of our own immaginations, then serve and worship the true and living God.

*Whether it be lawfull to take Armes for Religion.*

Furthermore to take away all scruple, we must necessarily answer, those which esteeme, or else would, that others should think they hold that opinion, that the Church ought not to be defended by Armes. They say with all that, it was not without a great Mysterie, that God did forbid in the Law, that the Alter should be made or adorned with the helpe of any toole of Iron; in like manner, that at the building of the Temple of *Solamon*: there was not heard any noyse of Axe or Hammer, or other tooles of Iron; from whence they collect that the Church which is the lively Temple of the Lord, ought not to be reformed by Armes; yea, as if the stones of the Alter, and of the Temple, were hewed and taken out of the quarries without any instrument of Iron, which the text of the holy

*Exod.* 20. 25. *Deut.* 27. 3. 1 *Kings* 6. 7

Scripture

Scripture doth ſufficiently cleare. But if we oppoſe to this goodly Allegory, that which is written in the fourth Chapter of the book of *Nehemiah*, that one part of the people, caried morter, and another part ſtood ready with their weapons, that ſome held in one hand their ſwords, and with the other, carried the materialls to the workmen, for the rebuilding of the Temple: to the end, by this meanes to prevent their enemies from ruining their work, we ſay alſo that the Church, is neither advanced, nor edified by theſe materiall weapons; but by theſe armes it is warranted, and preſerved from the violence of the enemies, which will not by any meanes endure the increaſe of it. Briefly, there hath been an infinite number of good Kings and *Princes*, (as Hiſtories do teſtifie, which by Arms: have maintained and defended the ſervice of God againſt Pagans. They reply readily to this, that Warres in this manner were allowable under the Law; but ſince the time that grace hath been offered by Jeſus Chriſt, who would not enter into *Ieruſalem* mounted on a brave horſe; but meekly ſitting on an aſſe: this manner of proceeding hath had an end, I anſwer firſt, that all agree with me in this, that our *Saviour* Chriſt during all the time that he converſed in this world, tooke not on him the Office of a Judge, or King; but rather of a private perſon, and a Delinquent by imputation of our tranſgreſſions: ſo that it is an allegation beſides the purpoſe, to ſay that he hath not managed Armes. But I would willingly demand of ſuch exceptioniſts: whether they think that by the coming of Jeſus Chriſt in the fleſh, that Magiſtrates have loſt their right in the ſword of Authority? If they ſay ſo, *Saint Paul* contradicts them, who ſaies that the Magiſtates carries not the ſword in vaine, and did not refuſe their aſsiſtance and power, againſt the violence of thoſe which had conſpired his death. And if they conſent to the ſaying of the Apoſtle to what purpoſe ſhould the Mageſtrates beare the ſword, if it be not to ſerve God, who hath committed it to them, to defend the good and puniſh the bad? Can they doe better ſervice then to preſerve the Church from the violence of the wicked, & to deliver the flock of Chriſt, from the ſwords of murtherers? I would demaund of them yet, whether they think that all uſe of Armes is forbiden to Chriſtians? If this be their opinion, then would I know of them, wherefore Chriſt did graunt to the Centurian his requeſt? Wherefore did he give ſo excelent a teſtimony of him? wherefore doth *St. Iohn* Baptiſt command the men at Armes to content themſelves with their pay, and not to uſe any extortion and doth not rather perſwade them to leave their calling? Wherefore did Saint *Peter* Baptize *Cornelius* the Centurian who was the firſt fruits of the Gentiles? From whence comes it that he did not in any

*Rom.* 13. 4. *Acts* 23. 17.

*Matt.* 8. 9. 13. *Luc.* 3. 14. *Act.* 10. 47.

ſort

sort whatsoever councell him to leave his charge? Now if to bear arms & to make war be a thing lawfull, can there possibly be found any war more just, then that which is taken in hand by the command of the superiour. for the defence of the Church, and the preservation of the faithfull? Is there any greater tirany, then that which is exercised over the soul? Can there be imagined a war more commendable then that which suppresseth such a tyrany? For the last point, I would willingly know of these men, whether it be absolutely prohibited Christians, to make war upon any occasion whatsoever? If they say that it is forbidden them: from whence comes it then that the men at Armes, Captains, and Centurions, which had no other imployment; but the managing of Armes were alwayes received into the Church? wherefore do the ancient Fathers, and Christian Historians make so horrible mention, of certain legions composed wholly of Christian Souldiers, and amongst others of that of *Malta*, so renowned; for the victory which they obteyned, and of that of *Thebes*, of the which *St. Mauricious* was Generall, who suffered martirdom together with all his Troopes, for the confessing of the name of Jesus Christ? And if it be permitted to make warre (as it may be they will confesse) to keepe the limmits and Townes of a Countrie, and to repulse an invading enemy: Is it not yet a thing much more reasonable, to take Armes to preserve and defend honest men, to suppresse the wicked, and to keepe and defend the limmits and bounds of the Church, which is the Kingdom of Jesus Christ? if it were otherwayes, to what purpose? should *St. Iohn* have foretold, that the whore of *Babylon*, shall be finally ruined by the 10. Kings, whom she hath bewitched? furthermore, if we hold a contrary opinion, what shall we say of the warres of *Constantine*, against *Maxentius*, and *Licinius*, celebrated by so many publick orations, and approved by the Testimony of an infinite number of learned men, what opinion should we hold of the many voyages, made by Christian *Princes*, against the Turkes and *Sarazins* to conquer the holy Land, who had not, or at the least, ought not to have had, any other end in their designes; but to hinder the enemy from ruining the Temple of the Land, and to restore the integrity of his service into those Countries. Although then that the Church be not increased by Armes, notwithstanding it may be justly preserved by the meanes of Armes; I say further, that those that dye in so holy a war, are no lesse the Martyrs of Jesus Christ, then their brethren which were put to death for Religion; nay, they which dye in that war seeme to have this inadvantage, that with a free will & knowing sufficiently hazard, into which they cast themselves, notwithstanding, do courageously expose their lives to death and danger; whereas

*Apoc.* 27.26.

the

other do only not refuse death, when it behoveth them to ſuffer. The *Turkes* ſtrive to advance their opinion by the meanes of Armes, and if they do ſubdue a Country, they preſently bring in by force the impieties of *Mahomet*; who in his Alcoran, hath ſo recommended Armes: as they are not aſhamed to ſay it is the ready way to Heaven, yet do the *Turkes* conſtrain no man in matter of conſcience. But he which is a much greater adverſary to Chriſt, and true Religion, with all thoſe Kings whom he hath inchanted, oppoſeth fire and fagots, to the light of the Goſpel, tortures the word of God, compelling by wracking, and torments, as much as in him lieth: all men to become Idolaters, and finally is not aſhamed, to advance and maintain their faith and law by perfideous diſloyalty, and their traditions by continuall treaſons. Now on the contrary, thoſe good Princes and Magiſtrates, are ſaid properly to defend themſelves, which invirone and fortifie by all their meanes and induſtry the vine of Chriſt, already planted, to be planted in places where it hath not yet been, leaſt the wild boore of the Forreſt ſhould ſpoyle or devoure it: They do this (I ſay) in covering with their Buckler, and defending with their ſword, thoſe which by the preaching of the Goſpel have been converted to true Religion, and in fortifying with their beſt ability, by ravelins, ditches, and rampers the Temple of God built with lively ſtones, untill it have attained the full height, in deſpite of all the furious aſſaults of the enemies thereof, we have lengthened out this diſcourſe thus far, to the end, we might take away all ſcruple concerning this queſtion. Set then the Eſtates, and all the Officers of a Kingdom, or the greateſt part of them, every one eſtabliſhed in authority by the people: know, that if they containe not within his bounds (or at the leaſt, imploy not the utmoſt of their endeavours thereto) a King that ſeekes to corrupt the Law of God, or hinders the reeſtabliſhment thereof, that they offend grievouſly againſt the Lord, with whom they have contracted Covenants upon thoſe conditions. Thoſe of a Town, or of a Province, making a portion of a Kingdom, let them know alſo, that they draw upon themſelves the judgement of God, if they drive not impiety out of their walls and confines, if the King ſeeke to bring it in, or if they be wanting to preſerve by all meanes, the pure Doctrine of the Goſpel, although for the defence thereof, they ſuffer for a time banniſhment, or any other miſery. Finally, more private men muſt be all advertiſed, that nothing can excuſe them, if they obey any in that which offends God, and that yet they have no right nor warrant, neither may in any ſort by their private authority take armes, if it appear not moſt evidently, that they have extraordinary vocation thereunto, all which our diſcourſe will ſuppoſe we have confirmed by pregnant Teſtimonies drawn from holy writ.

## The third Question.

*Whether it be lawfull to reſiſt a Prince which doth oppreſſe or ruine a publike State, and how far ſuch reſiſtance may be extended, by whom, how, and by what right, or law it is permitted.*

FOr ſo much as we muſt here diſpute of the lawfull authoritie of a lawfull Prince, I am confident that this queſtion will be the leſſe acceptable to Tirants, and wicked Princes; for it is no marvell if theſe which receive no law, but what their own will, and fancie dictates unto them, be deafe unto the voyce of that law wich is grounded upon reaſon. But I perſwade my ſelfe that good Princes will willingly entertaine this diſcourſe, inſomuch as they ſufficiently know that all Magiſtrates, be they of never ſo high a ranck, are but an inanimated and ſpeaking law, neither though any thing bee preſſed home againſt the bad, can it fall within any inference againſt the good. Tirants and Kings, as alſo good and bad Princes are in a direct diametre oppoſite and contrarie; therefore that which ſhall be urged againſt Tirants, is ſo farre from detracting any thing from Kings, as one the contrary, the more Tirants are laid open in their proper coleurs, the more glorious doth the true worth, & dignitie of Kings appear: neither can the vitious imperfections the one be layd open but it gives addition of perfections, and reſpect to the honour of the other. But for tirants let them ſay and thinke what they pleaſe, that ſhall be the leaſt of my care; for it is not to them, but againſt them that I write; for Kings I beleeve that they will readily conſent to that which is propounded, for by true proportion of reaſon they ought as much to hate Tirants and wicked governeurs, as Shepeards hate wolves, Phiſitians, Impoyſoners, true Prophets, falſe Doctors. for it muſt neceſſarily occur that reaſon infuſeth into good Kings as much hatred againſt Tirants, as nature imprinteth in dogs againſt wolves, for as the one lives by rapine and ſpoyle, ſo the other is borne or bred to redreſſe and prevent all ſuch outrages. It may be the flatterers of tirants will caſt a ſupercilious aſpect on theſe lines; but if they were not paſt all grace they would rather bluſh for ſhame. I very well know that the friends and faithfull ſervants of Kings will not onely approve and lovingly entertayn this diſcourſe but alſo with their beſt abilities defend the contents thereof accordingly then as the reader ſhall find himſelfe moved either with content or diſlike in the reading hereof, let him know that by that he ſhall plainly diſcover either the affection, or hatred that he beares to Tirants, let us now enter into the matter.

### *Kings are made by the People.*

We have ſhewed before that it is God, that doth appoint Kings, which chuſeth them, which gives the Kingdom to them: now we ſay that the people eſtabliſh Kings, putteth the Scepter into their hands, and which with their ſuffrages, approveth the election. God would have it done in this manner

manner, to the end, that the Kings should acknowledge, that after God they held their power and soveraignty from the people, and that it might the rather induce them, to apply & addres the utmost of their [illegible] and thoughts for the profit of the people, without being puffed with [illegible] vaine immagination: that they were formed of any matter more excellent then other men; for which they were raised so high above others: as if they were to command over flocks of sheepe, or heards of Cattel; but let them remember and know, that they are of the same mould and condition as others, raised from the earth by the voice and acclamations: now as it were upon the shoulders of the people unto their thrones, that they might afterwards bear on their own shoulders the greatest burthens of the Common-wealth. Divers ages before that, the people of *Israel* demanded a King. God gave and appointed the Law of royall government contained in the 17. Chapter. ver. 14. of *Deut.* when sayes *Moses*, thou art come unto the Land which the Lord thy God giveth thee, and shalt possesse it, and shalt dwell therein, and shalt say, I will set a King over me like as all the Nations that are about me, thou shalt in any wise set him whom the Lord thy God shall chuse from amongst thy brethren, &c. You see here, that the election of the King is attributed to God, the establishment to the people: now when the practice of this law came in use, see in what manner they proceeded. The Elders of *Israel* which presented the whole body of the people, (under this name of Elders, are comprehended the Captains, the Centurions, Commanders over fifties and tenns, Judges, provosts; but principally the chiefest of tribes) came to meete *Samuel* in *Ramah*, and not being willing longer to endure the government of the sonnes of *Samuel*, whose ill carriage had justly drawn on them: the peoples dislike, and withall perswading themselves that they had found the meanes to make their warres hereafter with more advantage they demanded a King of *Samuel*, who asking Councell of the Lord, he made known that he had chosen *Saul* for the Governour of his people. Then *Samuel* anointed *Saul*, and performed all those rights which belong to the election of a King required by the people. Now this might perhaps have seemed sufficient, if *Samuel* had presented to the people the King that was chosen by God, and had admonished them all to become good and obedient subjects. Notwithstanding to the end, that the King might know that he was established by the people, *Samuell* appointed the Estates to meet at *Mispah*, where being assembled as if the businesse were but then to begin, and nothing had allready been done, to be brief as if the election of *Saul* were then only to be treated of, the lot is cast and falls on the Tribe of *Benjamin*, after on the family of *Matri*, and lastly on *Saul*, born of that family who was the same that God had chosen; Then by the consent of all the people *Saul* was declared King. Finally, to the that *Saul* nor any other might attribute the aforesaid businesse to chance of lot, after that *Saul* had made some proofe of his valour in

1 Sam. 8. 5.

1 Sam. 9. 16.

1 Sam. 20. 18. &c.

1 Sam. 11. 14.

in raysing the siege of the *Ammonites* in *Iabesh Gilead*: some of the people pressing the businesse he was again confirmed King in a full assembly at *Gilgal*; ye see that he whom God had chosen, and the lot had separated from all the rest, is established K[illegible] the suffrages of the people.

*m.* And for *David*, by the Commandement of God, and in a manner more evident then the former, after the rejection of *Saul*, *Samuel* anointed for King over Israel *David* chosen by the Lord, which being done the spirit of the Lord presently left *saul*, and wrought in a speciall manner in *David*; But *David* notwithstanding raigns not, but was compeled to save himselfe in deserts and rocks, often times falling upon the very brim of destruction, and never raigned as King till after the death of *Saul*: for then by the suffrages of all the people of *Iudah* he was first chosen King of *Iudah*, and seaven yeares after by the consent of all *Israell*, he was inaugurated King of *Israell* in *Hebron*. So then he is annointed first by the Prophet at the commandement of God, as a token he was chosen, secondly by the commandement of the people when he was established King. And that to the end that kings may alwayes remember
*m.2.* that it is from God; but by the people, and for the peoples sake that they doe raignt, and that in there glorie they say not (as is there custome) that they hold their kingdome only of God and there sword, but withall add that it was the people which first girt them with that sword. The same order offered in *Solomon*, although he was the Kings sonne God hath chosen
*am.* *Solomon*, to sit upon the Throne of his kingdome, and by expresse words
3. had promised *David* to be with him and assist him as a Father his soone. *Da-*
*Kings* *vid* had with his one mouth designed *Solomon* to be successor to his Crowne in the presence of some of the principall of his Court. But this was not enough
*ron.* and therefore *David* assembled at Ierusalem the Princes of *Israell*, the heads
5. of the Tribes the Captaines of the Souldiers and ordinance officers of the
*ings* Kings, the centurions & other Magistrates of Towns together with his sons,
2. the noble men and worthiest personages of the Kingdome, to consult and re-
*hron.* solve upon the election. In this Assemblie after they had called upon the name
28. 1. & of God, *Solomon* by the consent of the whole congregation proclaimed and
29. 22. annointed for King, and sat (so saith the text) upon the Throne of *Israell*
24. then and not before the Princes the Noblemen his brothers themselves do him homage, and take the Oath of Allegiance. And to the end, that it may not be said, that that was onely done to avoid occasion of difference, which might arise amongst the brothers the sonnes of *David* about the succession, we reade
2 *Kings* that the other following kings have in the same manner been established in
20. their places, it is said, that after the death of *Solomon*, the people assembled to
2 *Chron.* create his sonne *Roboboam* king. After that *Amaziah* was killed, *Ozias* his on-
26. 36. ly sonne was chosen king by all the people, *Ochosias* after *Ioram*, *Ioachim*, the
& 22. 1. sonne of *Iosias*, after the disease of his Father, whose piety might well seeme to
& 36, 1.

require

require that without any other solemnity, notwithstanding both he and the other were chosen and invested into the royall Throne by the suffrages of the people. To which also belongs, that which *Hushai* said to *Absolam*, nay; but whom the Lord and this people, and all the men of *Israel* chuse, his will I be, and with him will I abide; which is as much as to say, *I* will follow the King lawfully established, and according to the accustomed order; wherefore although that God had promised to his people a perpetuall Lampe, to wit, a *King*, and a continuall successour of the Line of *David*, and that the successour of the kings of this people were approved by the word of God himselfe. Notwithstanding, since that we see that the Kings have not reigned, before the people had ordained and installed them, with requisite Ceremonies: it may be collected from this, that the Kingdom of *Israel*, was hereditary, if we consider *David* and the promise made to him, and that it was wholly elective, if we regard the particuler persons. But to what purpose is this, but to make it apparent, that the election is onely mentioned, that the Kings might have alwayes in their remembrance, that they were raised to their dignities by the people, and therefore they should never forget during life, in what a strict bond of observance they are tyed to those from whom they have received all their greatnesse. We read that the Kings of the Heathen have been established also by the people; for as when they had either troubles at home, or warres abroad, some one in whose ready vallour, and discreete integrity, the people did principally relye and repose their greatest confidence, him they presently with a universall consent constituted *King*. *Cicero* saith, that amongst the Medes, *Deioces* from a Judge of private controversies was for his uprightnesse, by the whole people elected *King*, and in the same manner were the first *Kings* chosen amongst the *Romans*. Insomuch, that after the death of *Romulus*, the interrayde and Government of the hundred senators, being little acceptable to the Quiutes it was agreed that from thence forward, the *Kings* should be chosen by the suffrages of the people, and the approbation of the senate. *Forquius Superbus* was therefore esteemed a tyrant, because being chosen neither by the people nor the senate, he intruded himself into the Kingdom only by force and usurpation; Wherefore *Iulius Cæsar* long after though he gained the Empire by the sword, yet to the end he might adde some shaddow or pretence of right to his former intrusion, he caused himself to be declared both by the people and senate perpetually dictator. *Augustus* his adopted sonne would never take on him as inheriter of the Empire, although he were declared so by the testaments of Cesar; but alwaies held it as of the people and senate. The same also did *Tiberius*, *Caligula* and *Claudius*, and the first that assumed the Empire to himself without any colour of right, was *Nero* who also by the senate was condemned. Briefly for so much as none were ever

2 *Sam.* 16. 18

*Psal.* 132. 11. 12.

*Herod. lib.* 1.

*Cicero. de offic.*

*Tit. Liv. lib.* 1.

borne

born with Crowns one their heads, and ſceptes in their hands, and that no man can be a King by himſelf nor reign without people; whereas on the contrary the people may ſubſiſt of themſelves, and were long before they had any Kings, it muſt of neceſſity follow that Kings were at the firſt conſtituted by the people, And although the ſons and dependants of ſuch Kings inheriting their fathers vertues, may in a ſort ſeeme to have rendred their Kingdoms heriditary to their offſprings and that in ſome Kingdoms and Countries the right of free election ſeems in a ſort buried; yet notwithſtanding in all well ordered Kingdoms this cuſtome is yet remaining, the ſons do not ſucceed the fathers, before the people firſt have as it were a new eſtabliſhed them by their new approbation; neither were they acknowledged in quality as inheriting it from the dead; but approved and accounted Kings then only when they were inveſted with the Kingdom, by receiving the Scepter and Diadem from the hands of thoſe who repreſent the Majeſty of the people. One may ſee moſt evident marks of this in Chriſtian Kingdoms, which are at this day eſteemed heriditary; for the French King, he of *Spaine* and *England* and others are commonly ſacred, and as it were put into poſſeſſion of their authority by the Peeres, Lords of the Kingdom, and Officers of the Crowne which repreſent the body of the people; no more nor leſſe then the Emperours of *Germany* are choſen by the Electors, and the Kings of *Polonia*, by the yavvodes and Pallatines of the Kingdom, where the right of Election is yet in force. In like manner alſo, the Cities give no royall reception, nor entries unto the King but alſo their inauguration, and anciently they uſed not to count the times of their reign but from the day of their coronation, the which was ſtrictly obſerved in *France*. But leaſt the continued courſe of ſome ſucceſſions ſhould deceive us, we muſt take notice that the eſtates of the Kingdoms have often preferred the coſen before the ſonne, the younger brother before the Elder as in France *Lewis* was preferred before his brother *Robert* Earle of *Eureux*: [ *Annales Gallj* ] in like manner *Henry* before *Robert* nephew to *Capet*. Nay which is more by authority of the people in the ſame Kingdom, the Crown hath bin tranſported (the lawfull inheriters living) from one linage to another as from that of *Merove* to that of the *Charlemaint*, and from that of the *Charlemaint* to that of the Capets, the which hath alſo beene done in other Kingdoms as the beſt Hiſtorians teſtify; But not to wander from France the long continuance and power of which Kingdom may in ſome ſort plead for a ruling authority, and where ſucceſſion ſeems to have obtained moſt equation. We read that *Pharamond* was choſen in the year 419 *Pepin* in the year 751. *Charles* the Great and *Carleman* the ſonne of *Pepin* in the yeare 768 without having any reſpect to their Fathers former eſtate. *Carleman* dying in the yeare 772. his portion fell not preſently into the poſſeſſion of his brother *Charles* the great, as it ordinarily happens in the ſucceſſion of inheritances, but by the Ordinance of the people and the eſtates of

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the Kingdom he is inveſted with it. the ſame authour witneſſeth that in the yeare 812 *Lewis* the Courteous although he were the ſonne of *Charles* the great was alſo elected: and in the Teſtament of *Charlimane* inſerted into the hiſtory written by *Nauclere*, *Charlemane* doth intreate the people to chuſe by a generall aſſembly of the Eſtates of the Kingdom which of his Grandchildren or Nephews the people pleaſed, and commaunding the Vncles to obſerve and obey the Ordinance of the people, by meanes whereof *Charles* the bald nephew to *Lewis* the courtious and *Iudith*, doth declare himſelf to be choſen King, as *Aimonius* the French hiſtorian recites.

To conclude in a word, all Kings at the firſt were altogeather elected, and thoſe which at this day ſeeme to have their Crown and Royall authority by inheritance, have or ſhould have firſt and principally their confirmation from the people. Briefly although the people of ſome Countries have been accuſtomed to chuſe their Kings of ſuch a linage which for ſome notable merits have worthily deſerved it; yet we muſt believe that they chuſe the ſtock it ſelf and not every branch that proceeds from it neither are they ſo tied to that election, as if the ſucceſſour degenera e they may not chuſe another more worthy, neither thoſe which come and are the next of that ſtock are borne Kings but created ſuch, nor called Kings but Princes of the blond royall.

*The whole body of the people is above the King.*

Now ſeeing that the people chuſe and eſtabliſh their Kings, it followeth that the whole body of the people is above the King; for it is a thing moſt evident that he which is eſtabliſhed by another is accounted under him that hath eſtabliſhed him, & he which receives his authority from an other is leſſe then he from whom he denies his power. *Potiphar* the *Egyptian* ſetteth *Ioſeph* over all his Houſe, *Nebuchadnezzar Danniel* over the Province of *Babylon*, *Darius* the fixſcore governors over the kingdom. It is cõmonly ſaid that Mrs. eſtabliſh their ſervants, *Kings* their officers: In like manner alſo the people eſtabliſh the *King* as adminiſtrator of the *Cõmon-wealth*. God *kings* have not diſdained this title; yea, he bad ones themſelvs have affected it: inſomuch, as for the ſpace of divers Ages no Roman Emperor (if it were not ſome abſolute tyrant, as *Nero*, *Domitian*, *Caligula*) would ſuffer himſelf to be called Lord; Furthermore, it muſt neceſſarily be that Kings were inſtituted for the people's ſake, neither can it be, *that for the pleaſure of ſome hundred of men, and without doubt more fooliſh and worſe then many of the other, all the reſt were made, but much rather that theſe hundred were made for the uſe and ſervice of all the other. And reaſon requires that he be preferred above the other, who was made only to and for his occaſion:* ſo it is, that for the ſhips ſake, the owner appoints a pylot over her, who ſits at the helm, and looks that ſhe keeps her courſe, nor run not upon any dangerous ſhelf: the pylot doing his duty is obeyed by the Mariners; yea, & of him himſelf that is owner of the veſſel, notwithſtanding, the pylot is a ſervant as well as the leaſt

leaſt in the ſhip, from whom he only differs in this, that he ſerves in better place then they do. In a Common-weath common y compared to a ſhip, the King holds the place of pylot, the people in general are owners of the veſſel, obeying the pylot whileſt he is carefull of the publique good, though this pylot neither is nor ought to be eſteemed other then ſervant to the publique, as a Judge or General in war differs little from other officers, but that he is bound to bear greater burdens, & expoſe himſelf to more dangers. By the ſame reaſon alſo which the King gains by acquiſt of arms, be it at he poſſeſſeth himſelf of Frontier places in warring on the enemy, or that which he gets by eſcheats or confiſcations, he gets it to the Kingdom & not to himſelf, *to wit*, to the people, of whom the Kingdom is compoſed; no more, nor leſs, then the ſervane doth for his maſter, neither may one contract or oblige themſelves to him, but by & with reference to the authority derived from the people. Furthermore, there is an infinite ſort of people which live without a *King*; but we cannot imagine a *King* without people, And thoſe which have bin raiſed to the Royal dignity, were not advanced becauſe they excelled other men in beauty & comeineſs, nor in ſome excellency of nature to govern them as ſhepheards doe their flocks, but rather being made out of the ſame maſſe with the reſt of the people, they ſhou'd acknowledge that for them, they as it were borrow their power & authority, The ancient cuſtome of the French repreſents that exceeding well, for they uſed to lift up on a buckler, & ſalute him King whom they had choſen. And wherefore is it ſaid, *I pray you that kings have an infinit e number of eyes, a million of ears, with extream long hands, and feet exceeding ſwift?* is it becauſe they are like to *Argos*, *Gerion*, *Midas*, & divers others ſo celebrated by the Poets? No truly, but it is ſaid in regard of all the people, whom the buſines principally concerns, who lend to the king for the good of the Common-wealth, their eyes, their ears, their means their facu ties. Let the people forſake the king, he preſently falls to the ground, although before his hearing & ſight ſeemed moſt excellent, & that he was ſtrong & in the beſt diſpoſition that might be, yea that he ſeemed to triumph in all magnificence, yet in an inſtant he will become moſt vile & contemptible, to bee brief, inſtead of thoſe divine honours wherewith all men adored him, he ſhalbe compelled to become a Pedant, & whip children in the ſchoole at *Corinth*. Take away but the baſis, to this Giant, & like the Rodian Coloſſe he preſently tumbles on the ground, & falls into pieces. Seeing then that the *King* is eſtabliſhed in this degree by the people & for their ſake, & that he cannot ſubſiſt without them, who can think it ſtrange then for us to conclude, that the people are aboue the *King*. Now that which we ſpeak of all the people univerſally, ought alſo to be underſtood as hath been delivered in the 2. queſtion, of thoſe which in every Kingdom or town do lawfully repreſent the body of the people, & which ordinarily (or at leſt ſhould be) called the officers of the Kingdom, or of the crown, & not of the King; For the officers of the King it is he which placeth & diſplaceth them at his pleaſure, yea, after his death they have no more power, & are accounted as dead. On the contrary, the officers of the Kingdom *receive their authority from the people in the general Aſſembly of the ſtates (or at the leaſt were accuſtomed ſo anciently to have done) & cannot be diſauthoriſed but by them, ſo then the one depends of the King, the other of the Kingdom, thoſe of the ſoveraign officer of the kingdom which is the King himſelf, theſe of the ſoveraignty it ſelf, that is of the people, of which ſoveraignty both the King, all his officers, and all his officers of the kingdom ought to depend. the charge of the one hath proper relation to the care of the Kings perſon: that of the other to look that the common-wealth receive no damage, the firſt ought to ſerve and aſſiſt the King, as all domeſtique ſervants are bound to doe to their maſters. the other to preſerve the rights & priviledges of the people, & to carefully hinder the Prince that he neither omit the things that may advantage the ſtate, nor commit any thing that may endammage the publique.* Briefly

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Briefly, the one are Servants and domestiques of the King, and received into their places to obey his person: the other, on the contrary, are as Associates to the King in the administration of justice, participating of the Royal power and authority, being bound to the utmost of their power, to be assisting in the managing of the affairs of State, as well as the King, who is as it were President amongst them, and principall onely in order and degree.

Therefore, as all the whole People is above the King, and likewise taken in one entire body are in authority before him; [illegible] considered one by one they are all of them under the King. It is easie to know how far the power of the first Kings extended, in that *Ephron* King of the *Hittites* could not grant *Abraham* the Sepulchre, but in the presence and with the consent of the People; neither could *Hemor* the *Hevite* King of *Sichem* contract an alliance with *Jacob*, without the Peoples assent, and confirmation thereof; because it was then the custome to refer the most important affairs to be dispensed and resolved in the generall Assemblies of the People. This might easily be practised in those kingdomes, which were then almost confined within the circuit of one towne. *Gen. 34.*

But since that Kings began to extend their limits, and that it was impossible for the People to assemble together all into one place because of their great numbers, which would have occasioned confusion the Officers of the kingdome were established, which should ordinarily preserve the rights of the People, in such sort notwithstanding, as when extraordinary occasion required the People might be assembled, or at the least such an abridgement as might by the principallest Members be a Representation of the whole Body. We see this order established in the kingdome of *Israel*, which (in the judgment of the wisest Politicians) was excellently ordered. The King had his Cupbearers, his Carvers, his Chamberlains and Stewards. The kingdome had her Officers, *Levits*, the 72. Elders, and the heads and chief chosen out of all the Tribes, which had the care of the Publique Faith in Peace and War.

Furthermore, the kingdome had in every town Magistrates, which had the particular government of them, as the former were for the whole kingdome. At such times as affairs of consequence were to be treated of, they assembled together, but nothing that concerned the publike state could receive any solid determination. *David* assembled the Officers of his kingdome when he desired to invest his Son *Solomon* with the Royal Dignity; when he would have examined and approved that manner of policy, and managing of affairs, that he had revived and restored, and when there was question of removing the Ark of the Covenant. *1. Chron. 29. 1. 1. Chron. 13. 1.*

And because they represented the whole people, it is said in the History, that all the people assembled. These were the same Officers that delivered *Ionathan* from death, condemned by the sentence of the *King*, by which it appeares, that there might be an appeale from the *King* to the People.

1 *Sam.* 14.45. After that the kingdome was divided through the pride of *Reoboam*, the Councel at *Ierusalem* composed of 71. Ancients, seems to have such authority, that they might judge the King, as well as the King might judge every one of them in particular.

2 *Chron.* 19. In this Councel was President the Duke of the house of *Iuda*, to wit, some principall man chosen out of that Tribe; as also, in the City of *Ierusalem* there was a Governour chosen out of the Tribe of *Benjamin* residing there. This will appear more manifest by examples, *Ieremy* sent by God to denounce to the Jewes the destruction of *Ierusalem*, was therefore condemned first by the Priests and Prophets, in whose hands was the Ecclesiasticall jurisdiction afterwards by all the people of the City; that is, by the ordinary Iudges of Ierusalem, to wit, the Milleniers, and the Centurions: Finally, the matter being brought before the Princes of Iuda, who were the 71. Elders assembled, and set neere to the new Gate of the Temple, he was by them acquitted.

*Neh.* 11. 9.

*Ier.* 16. 9 17.

In this very Assembly, they did discreetly condemn, in expresse terms, the wicked and cruell act of the King *Iehoiakin*, who a little before had caused the Prophet *Vriah* to be slain, who also fore-told the destruction of *Ierusalem*.

We read in another place that *Zedechias* held in such reverence the authority of this Councel, that he was so far from delivering of *Ieremy* from the dungeon, wherein to the 71. had cast him that he durst scant remove him into a lesse rigorous prison. They perswading him to give his consent to the putting to death the Prophet *Ieremy*, he answered, that he was in their hands, and that he might not oppose them in any thing. The same King fearing least they might make information against him, to bring him to an account for certain Speeches he had used to the Prophet *Ieremy*, was glad to feign an untrue excuse. It appeares by this, that in the kingdome of *Iuda* this Councel was above the King, in this kingdome, I say not fashioned or established by *Plato* or *Aristotle*, but by the Lord God, himself being Author of all their order, and supreame Moderator in that Monarchy. Such were the seven Magi or Sages in the Persian Empire, who had almost a paraleld dignity with the King, and were tearmed the ears and eyes of the King, who also never dissented from the judgment of those Sages.

*Ier.* 37. 38.

*Arist. in Pol. lib.* 3. c. 11. *l.* 3. c. 7.

In the kingdom of *Sparta* there was the *Ephori*, to whom an appeal

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lay from the judgment of the King, and who, as *Aristotle* sayes, had authority also to judge the Kings themselves.

In *Egypt* the people were accustomed to chuse and give officers to the King, to the end they might hinder and prevent any incroachment, or usurpt authority, contrary to the Laws. Now as *Aristotle* doth ordinarily tearm those lawfull Kings, which have for their Assistants such officers or Councellors: so also maketh he no difficulty to say, that where they be wanting, there can be no true Monarchy, but rather a tyranny absolutely barbarous, or at the least such a Dominion, as doth most neerly approach tyranny. *Aristot. in pol. l. 5. c. 11.*

In the Romane Common-wealth, such were the Senators, and the Magistrates created by the people the tribunes of those which were called Celerees, the Preter or Provost of the City, and others, insomuch as there lay an appeal from the *King* to the People, as *Sencca* declares by divers testimonies drawne from *Ciceros* bookes of the Common-wealth, and the History of *Orestes* sufficiently shewes, who being condemned by the Iudges for killing his sister, was acquitted by the people.

In the times of the Emperours there was the Senate, the Consulls, the Pretors, the great Provosts of the Empire, the Governours of Provinces, attributed to the Senate and the People, all which were called the Magistrates and Officers of the people of *Rome*. And therefore, when that by the decree of the Senate, the Emperour *Maximinus* was declared enemy of the Common-wealth, and that *Maximus* and *Albinus* were created Emperours by the Senate, the men of war were sworn to be faithfull, and obedient to the people of *Rome* the Senate, and the Emperors. Now for the Empires and publike States of these times (except those of *Turquie*, *Muscovie*, and such like, which are rather a rapsody of Robbers, and barbarous intruders, then any lawfull Empires) there is not one, which is not, or hath not heretofore been governed in the manner we have described. And if through the connivency and sloath of the principall Officers, the successors have found the bridle so in a worse condition, those which have for the present the publike Authority in their hands, are notwithstanding bound as much as in them lyeth to reduce things into their primary estate and condition. *Herod. l. 8.*

In the Empire of *Germany*, which is conferred by election, there is the Electors and the Princes both Secular and Ecclesiastical, the Counsellors, Barons, and Deputies of the Imperial Cities, and as all these in their proper places are Solicitors for the publike good, likewise in the Diets doe they represent the Majesty of the Empire, being obliged to advise, and carefully foresee, that neither by the Emperours partiality, hate, nor affection, the publike State do suffer, or be interessed. And for this reason, the

Empires

Empire hath its Chancellour, as well as the Emperour his, both the one and the other have their peculiar Officers and Treasurers apart. And it is a thing so notorious, that the Empire is preferred before the Emperour, that it is a common saying, *That the Emperour does homage to the Empire.*

*Speculum saxonicum.*

In like manner in the Kingdom of *Polonia*, there is for Officers of the Crown, the Bishops, the Palatins, the Castellains, the Nobility, the Deputies of Towns and Provinces assembled extraordinarily, before whom, and with whose consent, and no where else, they make new Lawes, and determinations concerning wars. For the ordinary Government there, is the Councellours of the kingdom, the Chancellour of the State, &c. although notwithstanding, the king have his Stewards, Chamberlains, Servants and Domestiques. Now if any man should demand in *Polonia* who were the greater, the King or all the people of the kingdom represented by the Lords and Magistrates; he should do as much, as if he asked at *Venice*, if the Duke were above the Seigniory. But what shall wee say of Kingdoms, which are said to go by hereditary succession? We may indeed conclude the very same. The kingdom of *France* heretofore preferred before all other, both in regard of the excellency of their Lawes and majesty of their Estate, may passe with most as a ruling case. Now although that those which have the publike commands in their hands, doe not discharge their duties as were to be desired, it followes not though, that they are not bound to do it. The King hath his high Steward of his Houshold, his Chamberlains, his Masters of his games, Cup-bearers, and others, whose offices were wont so to depend on the person of the King, that after the death of their Master, the offices were void. And indeed at the Funerall of the King, the Lord high Steward in the presence of all the officers and servants of the house-hold, breakes his staffe of office, and sayes, *Our Master is dead, let everyone provide for himselfe.* On the other side, the kingdom hath her officers, *to wit*, the Mayor of the Palace, which since hath been called the Constable, the Marshals, the Admirall, the Chancellour, or great Referendary, the Secretaries, the Treasurers and others, which heretofore were created in the Assembly of the three Estates, the Clergy, the Nobility, and the People.

*Aimonius lib. 5. c. 26. in Carolo calvo.*

Since that, the Parliament of *Paris* was made Sedentary, they are not thought to be established in their places, before they have beene first received and approved by that course of Parliament, and may not be dismissed nor deposed, but by the authority and consent of the same. Now all these officers take their oath to the *Kingdome*, which is as much as to say, to the people in the first place, then to the *King* which is protector of the *Kingdome*, the which appears by the tenour of the oath. Above all, the

Constable

Constable, who receiving the Sword from the *King*, hath it girded unto him with this charge, *That he maintain and defend the Common-wealth*, as appears by the words that the *King* then pronounceth.

Besides, the kingdome of *France* hath the Peers (so called either for that they are the *Kings* companions, or because they are the Fathers of the Common-wealth) taking their denominations from the severall Provinces of the kingdome, in whose hands the *King* at his inauguration takes his oath, as if all the people of the kingdome were in them present; which shews, that these twelve Peers are above the *King*. They on the other side sweat, *That they will preserve not the King, but the Crown, that they will assist the Common-wealth with their councell, and therefore will be present with their best abilities to councell the Prince both in peace and war*, as appears plainly in the *Patentee* of their Peership.

*S. Filius fam. instit. quib. mod. jus patria pot. solvitur.*

And they therefore have the same right as the Peers of the Court, which according to the Law of the *Lumbards*, were not only associates to the Lord of the Fee in the judgment of causes, but also did take an account, and judge the differences that happened between the Lord and his vassall.

*Renatus ch pinus lib. 3.*

We may also know, that those Peers of *France* did often discusse suits and differences between the *King* and his Subjects: Insomuch that when *Charles* the 6. would have given sentence against the Duke of *Brittain* they opposed it, alleadging that the discussing of that businesse belonged properly to the Peers, and not to the king, who might not in any sort derogate from their authority.

Therefore it is that yet at this day the Parliament of *Paris* is called the Court of Peers, being in some sort constituted Judge between the king and the people; yea, between the king and every private person, and is bound and ought to maintain the meanest in the kingdome against the kings Attorney, if he undertake any thing contrary to law.

Furthermore, if the king ordain any thing in his Councell, if he treat any agreement with the Princes his neighbours, if he begin a Warre, or make peace, as lately with *Charles* the 5. the Emperour, the Parliament ought to interpose their authority, and all that which concerns the publike State must be there inregistred; neither is there any thing firm and stable which the Parliament doth not first approve. And to the end, that the Councellours of that Parliament should not fear the king, formerly they attained not to that place, but by the nomination of the whole body of the Court; neither could they be dismissed for any lawfull cause, but by the authority of the said Body.

Furthermore, if the Letters of the *King* be not subsigned by a Secretary of the *Kingdom*, at this day called a Secretary of State, and if the *Letters Pattents* be not sealed by the Chancellour, who hath power also to cancell them, they are of no force or value. There is also Dukes, Marquesses, Earls, Vicounts, Birons, Seneschabs, and in the cities and good towns Mayors, Bayliffes, Lieutenants, Capitols, Consuls, Sindiques, Sheriffs, and others which have speciall authority through the Circuit of some countries or towns to preserve the people of their jurisdiction. Time it is, that at this day some of these dignities ere become hereditary. Thus much concerning the ordinary Magistrates.

*The Assembly of the three Estates.*

Besides all this, anciently every yeer, and since lesse often, *to wit*, when some urgent necessity required it, the generall or three Estates were assembled, where all the Provinces and Townes of any worth, *to wit*, the Burgesses, Nobles, and Ecclesiasticall persons, did all of them send their Deputies, and there they did publikely deliberate and conclude of that which concerned the publike state. Alwayes the authority of this Assembly was such, that what was there determined, whether it were to treat peace, or make war, or create a Regent in the *Kingdom*, or impose some new tribute, it was ever held firm and inviolable; nay, which is more by the authority of this Assembly, the *Kings* convinced of loose intemperancy, or of insufficiency, for so great a charge or tyranny, were disthronized; yea, their whole Races were for ever excluded from their succession to the *Kingdome*, no more, nor lesse, as their Progenitors were by the same authority formerly called to the administration of the same *Kingdome*. Those whom the consent and approbation of the Estates had formerly raised, were by the dissent and disallowing of the same afterwards cast down. Those which tracing in the vertuous steps of their Ancestors were called to that dignity, as if it had been their inheritance, were driven out, and dis-inherited for their degenerating ingratitude; & for that being tainted with insupportable vices, they made themselves uncapable and unworthy of such honour.

This shews, that succession was tollerated to avoid practises, close and under-hand canvasing, discontents of persons refused, contentions, interraines, and other discommodities of elections. But on the other part, when succession brought other mischiefes more pernicious, when tyranny trampled on the *Kingdome*, and when a Tyrant possessed himselfe of the Royal Throne, the Medicine proving much worse then the Disease: then the Estates of the *Kingdome* lawfully assembled in the name of all the people, have ever maintained their authority, whether it were to drive out a Tyrant, or other unworthy *King*, or to establish a good one in his

his place. The ancient French had learned that of the Gaules, as *Cæsar* shewes in his Commentaries. For *Ambiorix* King of the *Eburons*, or Leigeons confesseth, *That such were the condition of the Gallish Empire, that the people lawfully assembled, had no lesse power over the King, then the King had over the people.* The which appears also in *Vircingentorix*, who gives an account of his actions before the Assembly of the people. *Cæs. l. 5 & 7. de bello Gallico.*

In the kingdoms of *Spain*, especially *Aragon*, *Valentia*, and *Catalonia*, there is the very same. For that which is called the *Iustitia Major* in *Aragon* hath the Soveraign authority in it selfe. And therefore, the Lords which represent the people proceed so far, that both at the inaugaration of the King, as also at the Assembly of the Estates, which is observed every third yeer, to say to the King in expresse words that which follows, *We which are as much worth as you, and have more power then you, chuse you King upon these and these conditions, and there is one between you and us which commands over you*, to wit *the Iustitia Major of Aragon, which oftentimes refuseth that which the King demands, and forbids that which the King injoynes.*

In the kingdoms of *England* and *Scotland* the Soveraignty seemes to be in the *Parliament*, which heretofore was held almost every yeere. They call Parliaments the Assembly of the Estates the kingdome, in the which the Bishops, Earles, Barons, Deputies of Towns and Provinces deliver their opinions, and resolve with a joynt consent of the affaires of State, the authority of this Assembly hath been so sacred and inviolable, that the King durst not abrogate or alter that which had been there once decreed.

It was that which heretofore called and installed in their charges all the chief officers of the kingdome, yea, and sometimes the ordinary conncellers of that which they call the Kings privie Councell. In sum, the other christian Kingdoms, as *Hungary*, *Bohemia*, *Denmarke*, *Swedea*, and the rest, they have their officers apart from the Kings; and Histories, together with the examples that we have in these our times, sufficiently demonstrate that these Officers and Estates have knowne how to make use of their authority, even to the deposing and driving out of the tyrannors and unworthy Kings.

We must not therefore esteem that this cuts too short the wings of Royal authority, and that it is as much as to take the Kings head from his shoulders.

We believe that God is Almighty, neither think we it any thing diminisheth his power, because he cannot sin: neither say we, *that his Empire is lesse to be esteemed, because it cannot be neither shaken, nor cast downe.*:

neither

neither also must we judge a King to be too much abused, if he be withheld by others from falling into an errour, to which he is over-much inclined, or for that by the wisdome and discretion of some of his Counsellors, his kingdome is preserved and kept intire and safe, which otherwise, happily by his weaknesse or wickednesse might have been ruined. Will you say that a man is lesse healthfull, because he is inviroued with discreet Physitians, which councell him to avoid all intemperance, and forbid him to eat such meats as are obnoxious to the stomack, yea, and which purge him many times against his will and when he resists? which will prove his better friends, whether these Physitians which are studiously carefull of his health, or those Sicophants which are ready at every turn to give him that which must of necessity hasten his end? We must then always observe this distinction. The first are the friends of the *King*: The other are the friends of *Francis* which is *King*. The friends of *Francis* are those which serve him: The friends of the *King* are the officers & servants of the kingdom. For seeing the *King* hath this name, because of the kingdom, and that it is the people which give being and consistence to the kingdome, the which being lost, or ruined, hee must needs cease to be a *King*, or at the least not so truly a *King*, or else wee must take a shadow for a substance.

Without question, those are most truly the *Kings* friends, which are most industriously carefull of the welfare of his kingdom, and those his worst enemies which neglect the good of the Common-wealth, and seek to draw the *King* into the same lapse of errour.

And as it is impossible to separate the kingdom from the people, nor the King from the Kingdome, in like manner, neither can the friends of the King be dis-joyned from the friends of the people, and the Kingdome.

I say further, that those which with a true affection love *Francis*, had rather see him a King then a Subject. Now seeing they cannot see him a King, it necessarily followes, that in loving *Francis*, they must also love the Kingdome.

But those which would be esteemed more the friends of *Francis*, then of the kingdome and the people, are truly flatterers, and the most pernitious enemies of the King and publike State.

Now if they were true friends indeed, they would desire and endeavour that the King might become more powerfull, and more assured in his estate, according to that notable saying of *Theopompus* King of *Sparta*, after the Ephores or Controllers of the *Kings* were instituted, *Thomore (said he) are appointed by the People to watch over, and look to the*

affaires

*affaires of the Kingdome, the more those that govern shall have credit, and the more safe and happy shall be the State.*

*Whether prescription of time can take away the right of the people.*

But peradventure, some one will reply, you speak to us here of Peers, of Lords and Officers of the Crown. But I for my part see not any, but only some shewes and shadows of antiquity as if they were to be represented on a stage I see not for the present scarce any tract of that ancient liberty, and authority, nay which is worse a great part, if not all of those officers take care of nothing but their peculiar affairs, and almost, if not altogether, serve as flatterers about those Kings who joyntly tosse the poor people like tennice-balls: hardly is there one to be found that hath compassion on, or will lend a helping hand to the miserable subjects, fleaed and scorched to the very bones, by their insolent and insupportable oppression: If any be but thought to have such a desire, they are presently condemned as Rebels and seditious, and are constrained either to fly with much discommodity, or else must run hazard both of life and liberty. What can be answered to this? the businesse goes thus. The outragiousnesse of Kings, the ignorance of the party, together with the wicked connivence of the great ones of the kingdome, hath been for the most part such throughout the World, that the licentious and unbridled power wherewith most kings are transported and which hath made them insupportable, hath in a manner by the length of continuance gained right of prescription, and the people for want of using it hath incirely quit, if not altogether lost their just & ancient authority. So that it ordinarily happens, that what all mens care ought to attend on, is for the most part neglected by every man; for what is commited to the generalty, no man thinkes is commended to his custody. Notwithstanding, no such prescription nor prævarication can justly prejudice the right of the people: It is commonly said that the Exchequers doe admit no rule of prescription against it, much lesse against the whole body of the people, whose power transcends the Kings, and in whose right the King assumes to himself that priviledge; for otherwise, wherefore is the Prince only administrator, and the people true proprietor of the publique Exchequer, as we will prove here presently after. Furthermore, it is not a thing resolved on by all, that no tyrannous intrusion or usurpation, and continuance in the same course, can by any length of time prescribe against lawfull liberty. If it be objected, that Kings were enthronized, and received their authority from the people that lived

five hundred yeers ago, and not by those now living. I answer, that the Common-wealth never dyes, although Kings be taken out of this life one after another; for as the continuall running of the water gives the River a perpetuall being; so the alternative revolution of birth and death renders the people (*quoad hunc mundum*) immortall.

And further, as wee have at this day the same Seine and Tiber as was 1000. yeers agoe: in like manner also is there the same people of *Germany*, *France*, and *Italy* (excepting intermixing of Colonies, or such like) neither can the lapse of time, nor changing of individuals, alter in any sort the right of those people. Furthermore, if they say the King receives his kingdom from his Father, and not from the people, and hee from his Grandfather, and so one from another upward.

*Vlpian de reg. juris l. 54.*

I ask, could the Grandfather or Ancestor, transfer a greater right to his Successor then he had himself? If he could not (as without doubt it must need be so) is it not plainly perspicuous, that what the Successor further arrogates to himself, he may usurp with as safe a conscience, as what a Thiefe gets by the high-way side. The people on the contrary have their right of eviction intire and whole; although then that the officers of the Crown have for a time lost or left their rankes, this cannot in any true right prejudice the people, but rather cleer; otherwise as one would not grant audience, or shew favour to a slave which had long time held his master prisoner, and did not only vant himself to be free, but also presumptuously assumed power over the life and death of his master; neither would any man allow the excuses of a thiefe, because he had continued in that trade 30. yeers, or for that he had beene bred in that course of life by his Father, if hee presumed by his long continuance in that function to prescribe for the lawfulnesse, but rather the longer he had continued in his wickednesse, the more grievous should be his punishment: in like manner, the Princes altogether unsupportable, which because he succeeds a Tyrant, or hath kept the people (by whose suffrages he holds the Crown) in a long slavery, or hath suppressed the Officers of the kingdom (who should be protectors of the publike liberty) hat therefore presumes, that what he affects is lawfull for him to effect, and that his will is not to be restrained or corrected by any positive Law whatsoever. For prescription in tyranny detracts nothing from the right of the people; nay, it rather much aggravates the Princes outrages. But what if... Peers and principal officers of the Kingdom makes themselves parts with the King? What if betraying the Publique, cause the yoak of tyranny upon the peoples neck? shall it follow, that by this prevarication and treason the authority

rity is devolved into the King? Does this detract any thing from the right of the peoples liberty, or does it adde any licencious power to the King? Let the people thank themselves, say you, who relyed on the disloyall loyalty of such men.

But I answer, that these officers are indeed those Protectors whose principall care and study should be *that the people be maintained in the free and absolute fruition of their goods and liberty*. And therefore, in the same manner, as if a treacherous Advocate for a sum of money should agree to betray the cause of his Client, into the hands of his Adversary, which he ought to have defended, hath not power for all that to alter the course of justice, nor of a bad cause to make a good one, although perhaps for a time he give some colour of it.

In like manner this conspiracy of the great ones combined to ruine the inferiours, cannot disanull the right of the people; in the meane season, those great ones incur the punishment that the same alots against Prevaricators: and for the people, the same Law allowes them to chuse another Advocate, and afresh to pursue their cause, as if it were then only to begin.

For if the people of *Rome* condemned their Captains and Generals of their Armies, because they capitulated with their Enemies to their disadvantage (although they were drawn to it by necessity, being on the point to be all overthrown and would not be bound to performe the Souldiers capitulation: much lesse shall a free People be tyed to bear the yoak of thraldome, which is cast on them by those who should and might have prevented it; but being neither forced nor compelled did for their own particular gain willingly betray those that had committed their liberty to their custody.

*Wherefore Kings were created.*

Now, seeing that Kings have been ever established by the people, and that they have had Associates joyned with them, to contain them within the limits of their duties, the which Associates considered in particular one by one, are under the King and altogether in one intire Body are above him. We must consequently see wherefore first Kings were established, and what is principally their duty. We usually esteem a thing just and good when it attains to the proper end for which it is ordained.

In the first place every one consents, *That men by nature loving liberty, and hating servitude, born rather to command, then obey, have not willingly admitted to be governed by another, and renounced as it were the priviledge of nature, by submitting themselves to the commands of others:*

but for some speciall and great profit that they expected from it. For as *Esope* sayes, That the horse being before accustomed to wander at his pleasure, would never have received the bit into his mouth, nor the Rider on his back, but that he hoped by that means to overmatch the Bull: neither let us imagine, that Kings were chosen to apply to their own proper use, the goods that are gotten by the sweat of their Subjects; for every man loves and cherisheth his owne, They have not received the power and authority of the People to make it serve as a Pandar to their pleasures: for ordinarily, the inferiours hate, or at least envie their superiours.

Let us then conclude, that they are established in this place to maintain by justice, and to defend by force of Armes, both the publike State, and particular persons from all dammages and outrages, wherefore Saint *Augustine* saith, *Those are properly called Lords and Masters which provide for the good and profit of others, as the husband for the wife, fathers for their children.* They must therefore obey them that provide for them; although indeed to speak truly, those which governe in this manner, may in a sort be said to serve those, whom they command over.

*Aug lib. 16 de civit. dei, c. 15.*

For, as sayes the same Doctor, they command not for the desire of dominion, but for the duty they owe to provide for the good of those that are subjected to them: nor affecting any Lord like domineering, but with charity and singular affection, desiring the welfare of those that are committed to them.

*Seneca* in 81. Epistle sayes, That in the Golden Age, wise men onely governed Kingdoms, they kept themselves within the bounds of moderation, and preserved the meaneſt from the oppression of the greatest. They perswaded and disswaded, according as it advantaged or disadvantaged, the publike profit; by their wisdome, they furnished the Publique with plenty of all necessaries, and by their discretion prevented scarcity, by their valour and courage they expelled dangers, by their many benefits they encreased and inriched their Subjects, they pleaded not their duty in making pompeous shews, but in well-governing their People. No man made tryall what hee was able to do against them, because every one received what he was capable of from them, &c.

Therefore, then to govern is nothing else but to provide for: These proper ends of commanding, being for the Peoples commodity; the only duty of Kings and Emperours is to provide for the peoples good. The Kingly dignity to speak properly is not a Title of Honour, but a

weighty

weighty and burdensome office: It is not a discharge or vacation from affaires, to run a licentious course of liberty, but a charge and vocation to all industrious employments, for the service of the Commonwealth, the which hath some glimpse of honour with it, because in those first and Golden Ages, no man would have tasted of such continuall troubles, if they had not beene sweetned with some relish of honour: insomuch, as there was nothing more true, then that which was commonly said in those times. If every man knew with what turmoyles and troubles the Royall wreath was wrapt withall, no man would vouchsafe to take it up, although it lay at his feet.

When therefore that these words of mine and thine entred into the world, and that differences fell amongst fellow-Citizens, touching the propriety of goods and wars amongst neighbouring people about the right of their Confines, the people bethought them elves to have recourse to some one, who both could and should take order that the poore were not oppressed by the rich, nor the Patriots wronged by strangers. *Meum & tuum.*

Now as wars and suits encreased, they chose some one, in whose wisdome and valour they reposed most confidence. See then wherefore Kings were created in the first Ages *to wit*, to administer justice at home, and to be Leaders in the Wars abroad, and not only to repulse the incursions of the Enemy, but also to represse and hinder the devastation and spoyling of the Subjects and their goods at home; but above all, to expell and drive away all devices and debanchments farre from their Dominions.

This may be proved by all Histories, both divine and prophane. For the people of God they had at first no other King but God himselfe, who dwelt in the middest of them, and gave answer from betweene the Cherubins, appointed extraordinarily Judges and Captaines for the wars, by meanes whereof, the people thought they had no need of Lieutenants, being honoured by the continuall presence of their Soveraign King.

Now when the people of God began to be a weary of the injustice of the Sons of *Samuel*, on whose old age they durst no longer rely, they demanded a King after the manner of other people, saying to *Samuel Give us a King as other people have, that he may judge us.* There is touched the first and principal point of the duty of a *King*, a little after they are both mentioned. *We will have* (said they) *a King over us like other Nations. Our King shall judge us, and go in and out before us, & lead our Armies.* To do justice is alwaps set in the first place, for so much as it is an ordinary & perpetuall thing: but wars are extraordinary, and happen as it were casually. 1 *Sam.* 8 5. & 20.

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*Arist. de pol. l. 3. c. 11.* Whereſore, *Ariſtotle* ſayes that in the time of the *Herold*, all *Kings* were Judges and Captains. For the *Lacedemonian Kings*, they in his time alſo had Soveraign authority only in the Army, and that confined alſo to the commandements of the *Ephores*.

*Herod. l. 1.* In like manner, the *Medes* who were ever in perpetuall quarrels amongſt themſelves, at the length choſe *Deoces* for their Judge, who had carryed himſelf well in the deciding of ſome particular differences; preſently after they made him King, and gave him Officers and Guards, that he might more eaſily ſuppreſſe the powerfull and inſolent.

*Cicero* ſaith, that anciently all Kings were eſtabliſhed to adminiſter juſtice, and that their inſtitution and that of the Laws, had one and the ſame end, which was, that Equity and Right might be duly rendered to all men. the which may be verified by the propriety of the words almoſt in all languages. Kings are called by the Latins, *Reges a regendo*, for that they muſt rule and govern the limits and bounds, both of the publike and particulars. The names of Emperors, Princes, and Dukes have relation to their conquêt in the wars, and principall places in Combats and other places of Command. Likewiſe the Greekes call them in their Language *Basiles Archa, Hegemones*, which is to ſay, props of the people, Princes, Conductors. The Germans and other Nations uſe all ſignificant names and which expreſſe, that the duty of a *King* conſiſts not in making glorious Paradoes: but that it is an office of a weighty charge and continuall care. But in briefe, the Poet *Homer* calls *Kings* the Judges of Cities, and in deſcribing of *Agamemnon*, he calls him wiſe, ſtrong and valiant. As alſo, *Ovid* ſpeaking of *Erichtheus*, ſayes, that it was hard to know, whether Juſtice or Valour were more transparent in him: in which theſe two Poets ſeemes exactly to have deſcribed the duties of *Kings* and *Princes*. You ſee what was the Cuſtome of the *Kings* of the Heathen Nations; after whoſe examples, the Jewes demanded and eſtabliſhed their *Kings*.

*The English word KING is derived from the Ronigen, which ſignifies either fortitude or wiſdome.*

*Hom. lib. 1. Ilead.*

*Ovid. l. 6 meta.*

*Juſtia dubium valiaſne potentior armis.*

*2 chron. 9. 8.* The Queen of *Sheba* ſaid alſo to *Salomon*, that God had made him *King* over them to do judgment and juſtice.

*Wiſdome, 9. 7.* And *Solomon* himſelf ſpeaking to God, ſaith, Thou haſt choſen me to be a *King* over thy People, and a Judge of thy Sonnes and Daughters.

For

For this cause also the good Kings, as *David*, *Iosephat*, and others being not able in their own persons to determine all the suits and differences of their Subjects (although in the causes of greatest importance they received an appeal alwayes to themselves, as appears in *Samuel*) had ever above all things a speciall care, to establish in all places just and discreet Judges, and principally still to have an eye to the right administration of justice, knowing themselves to carry the sword, as well to chastise wicked and unjust Subjects, as to repulse forreigne Enemies. 2 *Sam.* 15.2. 1 *chron.* 23.4. & 26,29 2 *Chron.* 19.11

Briefly, as the Apostles sayes, *The Prince is ordained by God for the good and profit of the people, being armed with the sword to defend the good from the violence of the wicked*, and when he dischargeth his duty therein all men owe him honour and obedience. *Rom.* 13.

Seeing then that Kings are ordained by God and established by no people, to procure and provide for the good of those which are committed unto them, and that this good or profit be principally expressed in two things, to wit, in the administration of justice to their subjects, and in the managing of armes for the repulsing their ennemies: certainly, wee must inferre and conclude from this that the Prince which applies himself to nothing but his peculiar profits, and pleasures, or to those ends which most readily conduce thereunto, which contemnes and perverts all lawes, which useth his subjects more cruelly then the barbarest enimy would do, he may truly and really be called a Tyrant, and that those which in this manner govern their Kingdomes, be they of never so large an extent, are more properly unjust pillagers and boose-haiers then lawfull governours.

*Whether the Kings be above the law.*

Wee must here yet proceed a little further: for it is demanded whether the King which presides in the administration of justice have power to resolue and determine busineſſe according to his owne will and pleasure? must the Kings be subject to the law, or doth the law depend upon the King; the law (saith an ancient) is respected by those which otherwayes contemne vertue for it inforceth obedience and ministreth conduct in warfaring and gives viger and luster to justice and equity. *Pausanias* the *Spartane* will answer in a word, that it becomes lawes to direct, and men to yeeld obedience to their authority, *Agesilaus* King of *Sparta*. says that all commanders must obey the commandements of the lawes, But it shall not be amisse to claſſume this matter a little higher, when people began for justice to seek to determine their differences, if they met with any private man that did *August.* l. 4. c. 4. & 6. *de civita Dei.*

justly

juſtly appoint them they were ſatisfied with it, now for ſo much as ſuch men were rarely and with much difficulty met withall, and for that the judgements of kings received as lawes were oftentimes found contrary and difficult, then the Magiſtrates and others of great wiſdome invented lawes, which might ſpeak to all men in one and the ſame voice. This being done it was expreſſly injoyned to kings that they ſhold be the gardiens and adminiſtrators, And ſomtimes alſo for ſo much as the lawes could not fore-ſee the perticularities of actions to reſolve exactly it was permitted, the king to ſupply this defect by the ſame naturall equity by which the lawes were drawn, and for feare leaſt they ſhould go againſt law the people appointed them from time to time aſſociates, counſellors, of whom we have formerly made mention, wherefore there is nothing which exemples the *King* from obedience which he owes to the law, which he ought to acknowledge as his Lady and Miſtris eſteeming nothing can become him worſe then that feminine of which *Iuvinall* ſpeakes: *Sic volo, Sic jubeo, ſit pro ratione voluntas.* I will, I command, my will ſhall ſerve inſtead of reaſon, neither ſhould they think their authority the leſſe becauſe they are confind to laws, for ſeeing the law is a divine gift comming from above, which humane ſocieties are happily governed and addreſſed to their beſt and bleſſeddeſt end; thoſe *Kings* are as ridiculous and worthy of contempts, which repute it a diſhonour to conform themſelves to law, as thoſe ſurveyors which think themſelvs diſgraced, by uſing of a rule, a compaſſe, a chaine, or other inſtruments, which men underſtanding the art of ſurveying are accuſtomed to do, or a Pilot which had rather ſayle, according to his fantaſie and imagination, then ſteere his courſe by his needle and Sea lard, who can double, but that it is a thing more profitable & cõvenict to obey the law, then the King who is but one man: the law is the ſoul of a good king it gives him motion ſence and life, The King is the Organ and as it were the body by which the Law diſplays her forces, exerciſes her function, and expreſſes her conceptions; now it is a thing much more reaſonable to obey the ſoule, then the body, the law is the wiſdom of divers ſages, recollected in few words, but many ſee more cleere and further then one alone, It is much better to follow the Law then any one mans opinion be he never ſo acute, the law is reaſon and wiſdom it ſelf, free from all perturbation, not ſubject to be moved with chollet, ambition, hate, or acceptances of perſons; Intreaties nor threates cannot make it bow nor bend on the contrary a man though indued with reaſon ſuffers him ſelfe to be lead and tranſported with anger, deſire of revenge

venge, and other passions which perplex him in such sort, that he looseth his understanding because being composed of reason and disordered affections he cannot so contain himself but some times his passions becomes his Master. Accordingly wee see that *Valentinian* a good Emperour, permits those of the Empire to have low wines at once, because he was misled by that impure affection. Because Cambises the sonne of Cyrus became inamored of his own sister he would therefore have marriages betweene brother and sister, be approved and held lawfull *Cavades* King of the Persians prohibites the punnishment of adulteries we must looke for such lawes every day if we will have the law subjects to the King. To come to our purpose the law is an understanding mind or rather an obstacle of many understandings the mind being the seal of all the intelligence faculties is, if I may so terme it, a parcell of divinity: in so much as he who obeys the law seemes to obey God, and receive him for Arbitrator of the matters in controversie.

But on the contrary, insomuch as man is composed of this divine understanding, and of a number of unruly passions; so losing himselfe in that brutishnesse, as he becomes void of reason: and being in that condition, he is no longer a man, but a beast; he then which desires rather to obey the King, then the Law, seemes to prefer the commandement of a beast before that of God. *Aristo. lib. de mundo & lib 3 poli. cap.*

And furthermore, though *Aristotle* were the Tutor of *Alexander*, yet he confesseth, that the divinity cannot so properly be compared to to any thing of this life, as to the ancient Lawes of well-governed States: he that prefers the Commonwealth applyes himself to Gods Ordinance: but he that leans to the Kings fancies, instead of Law, prefers brutish sensuality before well-ordered discretion. To which also the Prophets seemes to have respect, who in some places describe these great Empires, under the representation of ravening Beasts. But to go on, is not he a very Beast, who had rather have for his guide a blind and mad man, then he which sees both with the eyes of the body, and mind, a beast rather then god. Whence it comes, that though kings as saith *Aristotle*, for a while, at the first, commanded without restraint of Laws, yet presently after civilized people reduced them to a lawfull condition, by binding them to keep and observe the Lawes: and for this unruly absolute authority it remained only amongst those which commanded over barbarous Nations.

He sayes afterwards, that this absolute power was the next degree to plain tyrannie, and he had absolutely called it tyrannie, had not

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these beasts like Barbarians, willingly subjected themselves unto it. But it will be replyed, that it is unworthy the majesty of Kings, to have their wills bridled by Laws: but I will say that nothing is more royall then to have our unruly desires ruled by good lawes.

It is much pitty to be restrained from that which we would doe; it is much more worse to will that which we should not do, but it is the worst of all to do that which the Laws forbid.

I hear me thinks a certain Furionius tribune of the people which opposed the passing of a Law that was made against the excesse which then reigned in Rome, saying. My Masters you are bridled, you are idle and fettered with the rude bonds of servitude, your liberty is lost, a Law is laid on you, that commands you to be moderate: to what purpose is it to say, you are free, since you may not live in what excesse of pleasure you like. This is the very complaint of many Kings at this day, and of their Mignion and Flatterers.

The Royall Majesty is abolished, if they may not turn the kingdom topsie-turvie at their pleasure. Kings may go shake their eares, if Laws must be observed.

Peradventure, it is a miserable thing to live, if a mad man may not be suffered to kill himself when he will.

For what else do those things which violate and abolish Lawes, without which, neither Empires, no nor the very Societies of freebooters can at all subsist?

*Cicero l. 2. officii.*

Let us then reject these detestable faisinesse and impious vanities of the Court-Marmonsists, which make kings gods, and receive their sayings as Oracles, and which is worse are so shamelesse, as to perswade Kings, that no thing is just or equitable of it selfe, but takes its true forme of justice or injustice, according as it pleaseth the King to ordain; as if he were some god, which could neither erre nor sinne at all. Certainly, all that which Gods will is just, and therefore, suppose it is Gods will, but that must be just with the Kings will, before it is his will. For it is not just because the King hath appointed it, but that King is just which appoints that to be held for just, which is good it self.

We will not then say as *Anaxarchus* did to *Alexander*, much perplexed for the death of his friend *Clitus*, whom he had killed with his own hands, *to wit*, that *Themis* the Goddesse of Justice, sits by Kings sides, as she does by Jupiters, to approve and confirme whatsoever to them shall seem good: but rather, she sits as President over kingdoms, to severely chastise those Kings which wrong or violate the majesty

of

of the Laws, we can no wayes approve that saying of *Thrasimachus* the *Chaldonean*, That the profit and pleasure of Princes, is the rule by which all Laws are defined: but rather, that right must limit the profit of Princes, and the Laws restrain their pleasures. And instead of approving that which that villainous woman said to *Caracalla*, that whatsoever he desired was allowed him: We will maintain that nothing is lawful but what the Law permits.

And absolutely rejecting that detestable opinion of the same *Caracalla*, that Princes gives Laws to others, but receive none from any; we will say that in all kingdomes well established, the King receives the Laws from the people, the which he ought carefully to consider and maintain, and whatsoever, either by force or fraud he does, in prejudice of them must alwayes be reputed unjust.

*Kings receive Lawes from the people.*

These may be sufficiently verified by examples. Before there was a King in *Israel*, God by *Moses* prescribed to him both sacred and evill Ordinances, which he should have perpetually before his eyes: but after that *Saul* was elected and established by the people, *Samuel* delivered it to him written, to the end he might carefully observe it, neither were the succeeding Kings received before they had sworn to keepe those Ordinances. *Deut.* 17

The Ceremony was this, that together with the setting of the crown on the Kings head, they delivered into his hands the Book of the Testimony, which some understand, *to be the right of the people of the Land*, others, *the Law of God, according to which he ought to govern the people.* *Cyrus* acknowledging himself conservator of his Countries Lawes, obliegeth himself to oppose any man that would offer to infringe them: and at his mauguration tyes himself to observe them, although some flatterers tickled the eares of his Son *Cambises*, that all things were lawfull for him.

The Kings of *Sparta* whom *Aristotle* calls lawfull Princes, did every moneth renew their oaths, promising in the hands of the *Ephori*, procures for the kingdome, to rule according to those Lawes which they had from *Lieurgus*. *Zeneph. de Reb. Laced.*

Hereupon it being asked *Archidamus*, the Son of *Zeuxidamus*, who were the Governours of *Sparta*, he answered, *the Laws, and the lawfull Magistrates.*

and least the lawes might grow into contempt, these people bragged that they received them from heaven, and that they were inspired from above, to the end that men might beleeve that their determinations were from God, and not from man, the Kings of Egypt did in nothing vary from the tennour of the lawes, and confessed that their principall felicity consisted in the obedience they yeelded to them. *Romulus* at the institution of the Roman kingdome made this agreement with senators, the people should make lawes and he would take both for himselfe and others to see them observed and kept. *Antiochus* the third of that name King of *Asia* writ unto all the Cities of his kingdome, That if the letters sent unto them in his name there were any thing found repugnant to the lawes, they should beleeve they were no act of the Kings, and therefore yeeld no obedience unto them. Now although some Citizens say, that by decree of Senate the Emperour *Augustus* was declared to be exempt from obedience to Lawes: yet notwithstanding *Theodosius*, and all the other good and reasonable Emperours, have professed that they were bound to the Lawes, lest what had been extorted by violence, might be acknowledged and received instead of Law. And for *Augustus Cæsar* in so much as the Roman Common wealth was enthralled by his power and violence she could say nothing freely but that she had lost her freedome. And because they durst not call *Augustus* a tyrant the senate said he was exempt from obedience to the lawes, which was in effect as much as if they plainely should have said he Emperour was an outlaw. The same right hath ever beene of force in all well governed States and Kingdomes of Christendome.

*Fulgos. lib. 5. ca. 6.*

For neither the Emperour the King of *France*, nor the Kings of *Spain*, *England Polander*, *Hungarie*, and all other lawfull Princes, as the Arch Dukes of *Austria* Dukes of *Brabant*, Earles of *Flaunders*, and *Holland*, nor other Princes are not received to the government of their estates before they have promised to the Electours, Peeres, Palatins, Lords, Barons, and Governours, that they will render to every one right according to the lawes of the Country, yea so strictly that they cannot alter or innovate any thing contrary to the priviledges of the countries without the consent of the townes and provinces, If they doe it, they are no lesse guilty of rebellion against the lawes then the people is in their kind if they refuse obeisance, when they command according to law; briefly lawfull princes receive the lawes from the people as well as the crown in lieu of honour, and the

sceptre

scepter in lieu of power, which they are bound to keep and maintain and therein repose their chiefest glory.

*If the Prince may make new lawes.*

What then? shall it not be lawfull for a Prince to make new lawes and abrogate the old? seeing it belongs to the King not onely to advise that nothing be done neither against nor to defraud the lawes; but also that nothing be wanting to them or any thing to much in them; briefly that neither age nor lapse of time do abolish or entombe them: If there be any thing to abridge, added, or taken away from them, it is his duty to assemble the estates, and to demand their advise and resolution, without presuming to publish any things before the whole have beene first duly examined and approved by them, after the Law is once ennacted and published, there is no more dispute to be made above it, all men owe obedience to it, and the prince in the first place to teach other men their duty, and for that all men are easilier led by example then by precepts, the prince must necessarily expresse his willingnesse to observe the lawes or else by what equity can he require obedience in his subjects to that which he himselfe contemnes.

For the difference which is betwixt Kings and subjects ought not to consist in impurity, but in equity and justice. And therefore although Augustus was esteemed to be exempt by the decree of the Senate, notwithstanding reproving of a young man that had broken the Julian law concerning adultery, he boldly replyed to Augustus that he himself had transgressed the same laws which condemnes adulteries, the Emperour acknowledged his fault and for grief forbore to late. So convenient a thing it is in nature to practise by example that which we would teach by precept. *Demoth in oratio con. Timocrat.*

The Lawgiver Solon was wont to compare lawes to mony, for they maintain humane societies as many preserves traffick, neither improperly, then if they Kings may not lawfully or at the least heretofore could not mannace or imbase good mony without the consent of the Commonweal how much more lesse can he have power to make and unmake lawes, without the which, nor Kings, nor subjects, can cohabite in security but must before et to live brutishly in caves and deserts like wild beasts wherefore also the Emperour of Germany esteeme it needfull to make some law for the good of the empire, first he demands the advise of the estates, if it be there approved, the Princes, Baron, & Deputies of the towns signe it and then the law is ratified for he solemnly swears to keep the laws already made, and to introduce no new ones without a generall consent. *Innocen. 3. ad regem. Fam. in ca. quado d jure jurando.*

There

There is a Law in *Polonia*, which hath beene renewed in the yeere, 1454. and alſo in the yeere 1538. and by thoſe it is decreed, that no new Lawes ſhall be made, but by a common conſent, nor no where elſe, but in the Generall Aſſembly of the Eſtates.

For the Kingdome of France, where the Kings are thought to have greater authority, then in other places, anciently all Lawes were onely made in the Aſſembly of the Eſtates, or in the ambulatory *Parliament*. But ſince this Parliament hath been Sedentary, the Kings edicts are not received as authentically, before the *Parliament* hath approved them.

Whereas on the contrary, the decrees of this *Parliament*, where the Law is defective, have commonly the power and effect of Law. In the Kingdomes of *England*, *Spain*, *Hungary*, and others, they yet enjoy in ſome ſort their ancient priviledges.

For, if the welfare of the Kingdom depends of the obſervation of the Laws, and the Lawes are enthralled to the pleaſure of one man? is it not moſt certain, that there can be no permanent ſtability in that government? Muſt it not then neceſſarily come to paſſe, that if the King (as ſome have been) be infected with Lunacie, either continually or by intervales, that the whole State fall inevitably to ruine? But if the Laws be ſuperiour to the King, as we have already proved, and that the King be tyed in the ſame reſpect of obedience to the Lawes, as the Servant is to his Maſter, who will be ſo ſenſleſſe, that will not rather obey the Law, then the King? or will not readily yeeld his beſt aſſiſtance againſt thoſe that ſeek to violate or infringe them? Now ſeeing that the King is not Lord over the Lawes, let us examine how far his power may be juſtly extended in other things.

### *Whether the Prince have power of life and death over his Subjects?*

The Minnions of the Court hold it for an undeniable Maxime, That Princes have the ſame power of life and death over their Subjects, as anciently, Maſters had over their ſlaves, and with theſe falſe imaginations have ſo bewitched Princes, that many, although they put not in ure with much rigour this imaginary right, yet they imagine, that they may lawfully do it, and in how much they deſiſt from the practiſe thereof, in ſomuch, that they quit and relinquiſhe of their right and due.

But

But we affirme on the contrary, that the Prince is but as the Minister and Executor of the Law, and may only unsheath the Sword against those whom the Law hath condemned; and if he do otherwise, he is no more a King, but a Tyrant; no longer a Judge, but a Malefactor, and instead of that honourable Title of Conservatour, he shall be justly branded with that foule terme of Violator of the Law and Equity.

We must here first of all take into our consideration the foundation on which this our disputation is built, which we have resolved into this head, *That Kings are ordained for the benefit and profit of the publike State*; this being granted, the question is soon discust: For who will believe that men sought and desired a King, who upon any sudden motion might at his pleasure cut their throats: or which in colour or revenge might when he would take their heads from their shoulders.

Briefly, who (as the wise man sayes) carryes death at his tongues end, we must not think so idely.

There is no man so vain, which would willingly that his welfare should depend of anothers pleasure; Nay, with much difficulty will any man trust his life in the hands of a friend or a brother, much lesse of a stranger, be he never so worthy. Seeing that Envie, Hate, and Rage did so far transport *Athanas* and *Ajax* beyond the bounds of reason, that the one killed his children, the other fayling to effect his desire in the same kind against his friends and companions, turned his fury and murtherous intent, and acted the same revenge upon himself. Now it being naturall to every man to love himselfe, and to seek the preservation of his own life.

In what assurance I pray you would any man rest to have a Sword continually hanging over his head by a small threed, with the point towards him? Would any mirth or jollity relish in such a continuall affright? Can you possible make choyce of a more slender threed then to expose your life and welfare into the hands and power of a man so mutable that changes with every puff of wind. Briefly, which almost a thousand times a day, shakes off the restraint of reason and discretion, and yeelds himself slave to his own unruly and disordered passions.

Can there be hoped or imagined any profit or advantage so great or so worthy, which might equalize or counterpose this feare or this danger? Let us conclude then, that it is against Delinquents onely, whom

whom the mouth of the Law hath condemned, that *King* may draw forth the Sword of Authority.

*If the King may pardon those whom the Law condemnes?*

But because life is a thing precious, and to be favoured, peradventure it will be demanded, whether the *King* may not pardon and absolve those whom the Law hath condemned.

I answer, no. Otherwise this cruell pitty would maintain Theeves, Robbers, Murtherers, Ravishers, Poysoners, Sorcerers, & other plagues of Mankind, as we may reade Tyrants have done heretofore in many places, and to our wofull experience, wee may yet see at this present time; And therefore, the Beast of Law in this kind, will by impunity much encrease the number of offendors.

So that he which received the Sword of Authority from the Law to promise offences, will arme offenders therewith against the Lawes, and put himselfe the Woolfe into the Fold, which hee ought to have warranted from their ravenous outrages.

But for so much that it may chance in some occasions, that the Law being mute, may have need of a speaking Law and that the King being in some cases the aptest Expositor, taking for the Rule of his actions Equity and Reason, which as the soule of the Soule may so cleere the intention thereof, as where the offence is rather commited against the words, then the intendment of the Law, hee may free the innocent Offendor from the guilt thereof, because a just and equitable Exposition of the Law may in all good reason be taken for Law it selfe, as neerest concurring with the intention of the Law makers.

L. *Nominis & rei* S. *verbum ex lege*. D. *de verb. signif.*

Notwithstanding, least passion should preposse the place of reason Kings should in this fashion themselves to the ordinary practise of the Emperour, severns not to determine absolutely any thing before it were maturely discussed by upright and discreet men, in that faculty.

And so the King may rigorously punish the Murtherer; and yet notwithstanding pardon him, which casually, and without any such purpose killeth one. He may put to death the Thiefe, and yet pardon that man which in his own defence killeth him that would have robbed him. Briefly, in all other occurrences hee may distinguish, as being established Arbitrator and Newter, Chaunce-medly from malice, fore-thought a good purpose from the Rigour of the Law, without favouring at any time Malice or Treason, Neither can the

right

omission of this duty gain to him any true esteeme of mercifull: for certainly that Shepherd is much more pitifull which kils the Woolf, then he which lets him escape: the clemencie of that King is more commendable which commits the malefactor to the hangman, then he which delivers him; By putting to death the murtherer, many Innocents are delivered from danger: whereas by suffering him escape, both he and others through hope of the like impunitie, are made more audacious to perpetrate farther mischief, so that the immediate act of saving one Delinquent, arms many hands to murther divers Innocents; there is therefore both truly mildnesse in putting to death some, and as certainly cruelty in pardoning of others. Therefore as it is permitted the King, being as it were *Custos* of the Law, in some cases to interpret the words thereof: so in all well ordered Kingdoms, it is enjoyned the Counsell of State, and their duty obligeth them to examine the Kings interpretation, and to moderate both his severitie and facilitie. If through the corruption and weaknes of men this have not been so really and throughly observed as it ought: yet notwithstanding the right alwayes remains intire, and there wants onely integritie and courage in the parties to make it effectuall.

But not to heap up too many examples in a matter so manifestly clear, it hath been in this manner practised in the Realm of *France*. For we have there oftentimes seen those put to death, to whom the King had granted his Charter of pardon: and those pardoned, whom He commanded should be put to death. And sometimes offences committed in the Kings presence remitted, because there was no other witnesse but himself. The which happened in the time of *Hen: 2.* to a certain stranger, who was accused by the King himself of a grievous offence. If an offendor by the intercession of friends have his pardon granted by the King, the Chancellor upon sufficient cause may cancell it; if the Chancellor connive, yet must the criminal present it before the Judges, who ought not onely carefully to consider, whether the Pardon were gotten by surreptitious or indirect means, but also if it be legall, and in due form: neither can the Delinquent that hath obtained his Charter of Pardon make use of it, untill first he appeal in publick Court bare-headed, and on his knees plead it, submitting himself prisoner untill the Judges have maturely

weighed and considered the reasons that induced the King to grant him his pardon: If they be found insufficient, the offendor must suffer the punishment of the Law, as if the King had not granted him any pardon: but if his pardon be allowed, he ought not so much to thank the King, as the equitie of the Law which saved his life. The manner of these proceedings was excellently ordained, both to contain the King within the limits of equitie, lest being armed with publick Authoritie, he should seek to revenge his own particular spleen, or out of fancie or partialitie remit the wrongs and outrages committed against the publick safetie: as partly also to restrain an opinion in the Subject, that any thing could be obtained of the King which might prejudice the Laws. If these things have been ill observed in our times, notwithstanding that which we have formerly said, remains alwaies certain, that it is the Laws which have power over the lives and deaths of the Inhabitants of a Kingdom, and not the King which is but Administrator and Conservator of the Laws.

*Subjects are the Kings Brethren, and not his Slaves.*

For truly neither are the Subjects, as it is commonly said, the Kings slaves, or bondmen: being neither prisoners taken in the wars, nor bought for money: but as considered in one intire body they are Lords, as we have formerly proved; so each of them in particular ought to be held as the Kings *Brothers and kinsmen.* And to the end that we think not this strange, let us hear what God himself saith when he prescribes a law to Kings; That they lift not their heart above their brethren from amongst whom they were chosen. Whereupon *Bartolus* a famous Lawyer, who lived in an age that bred many Tyrants, did yet draw this conclusion from that Law, that Subjects were to be held and used in the qualitie and condition of the Kings brethren, and not of his slaves. Also King *David* was not ashamed to call his Subjects *his brethren.* The ancient Kings were called *Abimelech*, an Hebrew word which signifies, *My father the King.* The Almighty and all good God, of whose great gentlenesse and mercie we are daily partakers, and very seldome feel his severitie, although we justly deserve it, yet is it alwayes mercifully mixed with compassion; whereby he teacheth Princes, his Lieutenants, that Subjects ought rather to be held in obedience by love, than by fear.

Deut. 17. 15. 20

B. to in tract de regim. civit.

1 Chron. 28. 2

But lest they should except against me, as if I sought to trench too

too much upon the Royall Authoritie, I verily beleeve it is so much the greater, by how much it is likely to be of longer continuance. For saith one, servile fear is a bad guardian, for that Authoritie we desire should continue; for those in subjection hate them they fear, and whom we hate, we naturally wish their destruction: on the contrary, there is nothing more proper to maintain their Authority then the affection of their subjects, on whose love they may safeliest and with most securitie lay the foundation of their greatnesse. And therefore that Prince which governs his Subjects as brethren, may confidently assure himself to live securely in the midst of dangers: whereas he that useth them like slaves, must needs live in much anxietie and fear, and may well be resembled to the condition of that Master which remains alone in some desart in the midst of a great troop of slaves; for look how many slaves any hath, he must make account of so many Enemies, which almost all Tyrants that have been killed by their Subjects have experimented: whereas on the contrary, the Subjects of good Kings are ever as solicitously carefull of their safetie, as of their own welfare. *Cicer. l. 2. offic.*

To this may have reference that which is read in diverse places of *Aristotle*, and was sayd by *Agasicles* King of *Sparta*, That Kings command as fathers over their children, and Tyrants as masters over their slaves, which we must take in the same sence, that the civilian *Martianus* doth, to wit, that paternall authority consists in piety, and not in rigor, for that which was practised amongst the men of the accorne age, that fathers might sell, and put to death their children at their pleasure, hath no authority amongst Christians, yea the very Pagans which had any humanity, would not permit it to be practised on their slaves. Therefore then the father hath no power over the sons life, before first the Law have determined it, otherwaise he offends the Law, *Corneliam de Cornelius* against privie murtherers, and by the Law *Pompeium* against *Parricides*, the father is no lesse guilty which kills the son, then the son which murthers the father: for the same occasion the Emperor *Adrian* banished into an Island which was the usuall punishment for notorious offenders, a father which had slain his son, a hurting of whom he had entertained a jealous opinion for his mother in Law, concerning servants or slaves, we are admonished in holy writ to use them like brethren, and by humane *Plato lib. 8. de repub. Seneca. Aliud est servire, aliud obedire: aliud libertas, aliud licentia. L. 5. D. de parricid. L. 2. ad leg. Corneliam de sicar. vbi vlp. L. 1. c. de parricid.*

constitutions as hirelings, or mercinaries.

*Ecclesiast.* 33. *Cicer. lib.* 3. *offici. Diod. Sic. lib.* 2. *C.* 2. *L.* 1. *D. de his qui sunt sui, vel. al. juris.*

By the Civill Law of the *Egyptians*, and *Romans*, and by the constitutions of the *Antonins*, the Master is alwell liable to punishment which hath killed his own slave, as he which killed another mans. In like manner the Law delivers from the power of the Master the slave whom in his sickneſſe he hath altogether neglected, or hath not afforded convenient food, and the infranchiſde slave whoſe condition was somewhat better, might for any aparent injurie bring his action against his Patron. Now seeing there is so great difference between slaves, and lawfull children, betwixt Lords and fathers, and notwithstanding heretofore it was not permitted amongſt the heathen, to use their slaves cruelly: What shall we say, pray you, of that father of the people, which cries out tragically with *Atreus*, I will devoure my Children? In what esteeme shall we hold that Prince which takes such pleasure in the massacring his Subjects, (condemned without being ever heard) that he dispatched many thousand of them, in one day, & yet is not glutted with blood: Briefly who after the example of *Caligula* (surnamed the *Phaeton* of the world) wisheth that all his people had but one head that he might cut it off at one blow? Shall it not be lawfull to implore the assistance of the Law against such furious madneſſe, and to pull from such a Tyrant the sword which he received to maintaine the Law, and defend the good, when it is drawn by him onely for rapine and ruine?

*Whether the goods of the people belong to the King,*

But to proceed, let us now see whether the King whom we have alreadie proved, hath not power over the lives of his Subjects; is not at the least Lord over their Goods. In these dayes there is no language more common in the Courts of Princes, then of those who say all is the Kings. Whereby it follows, that in exacting any thing from his Subjects he takes but his own, and in that which he leaves them, he expresseth the care he hath that they should not be altogether destitute of meanes to maintaine themselves; and this opinion hath gained so much power in the minds of some Princes, that they are not ashamed to say that the paines, sweat and industrie of their Subjects is their proper revenue, as if their miserable Subjects onely kept beasts

to

to till the earth for their insolent masters profit, and luxurie. And indeed, the practise at this day is just in this manner, although in all right & equity it ought to be contrarie, now we must alwaies remember that Kings were created for the good and profit of the people, and that those (as *Aristotle* sayes) which indeavour and seeke the commoditie of the people, are trusty Kings: whereas those that make their own private ends and pleasures, the onely butt and aime of their desirers are truly Tyrants.

It being then so that every one loves that which is his owne, yea that many covet that which belongs to other men, is it any thing probable that men should seek a master to give him franck-lie al that they had long laboured for, and gained with the sweat of their browes? may we not rather imagine, that they chose such a man on whose integrity they relied for the administring of justice equally both to the poore and rich, and which would not assume all to himselfe, but rather maintaine every one in the fruition of his own goods? or who like an unprofitable Drone should suck the fruit of other mens labours, but rather preserve the house, for those whose industrie justly deserved it? briefly, who instead of extorting from the true owners their goods, would see them defended from all ravening oppressors? What I pray you skills it sayes the poore Countrie man, whether the King, or the enemy make havok of my goods, since through the spoile thereof I and my poore familie die for hunger? what imports it whether a stranger or home-bred caterpiller ruine my estate, and bring my poore fortune to extream beggery? Whether a forrein Souldier, or a Sicophan Courtier by force or fraud, make me a-like miserable? Why shall he be accounted a barbarous enemy, if thou be a friendly Patriot? Why he a Tyrant if thou be a King? Yea certainly by how much parracide is greater then manslaughter, by so much the wickednesse of a King, exceeds in mischiefe the violence of an enemy.

If then therefore in the creation of Kings, men gave not their own proper goods unto them, but onely recommended them to their protection; by what other right then, but that of free booters, can they challenge the propertie of other mens goods to themselves? Wherefore the Kings of *Egypt* were not (according to Law) at the first the Lords of particular mens estates, but were onely then when they were sold unto them for corne, and

Gen 45. 1 Kings. 21. 1. &c.

yet may there well be queſtion made of the validitie of that contract. *Ahab* King of *Iſrael* could not compell *Naboth* to ſell him his vineyard; but rather if he had been willing, the Law of God would not permit it. The Roman Emperors which had an unreaſonable power, could neither by right have done it. At this day there is with much difficultie any Kingdom to be found, where the meaneſt Subject may not ſue the King, & where many times the King is not caſt in the ſute, which ſucceeding he muſt as well as others ſatisfie the judgment. And to this is not contrarie, although at the firſt veiw it ſeeme ſo, that which ſome of their moſt familiars have written of the Emperors. That by the civill Law all things were the Kings, and that *Cæſar* was abſolute Lord of all things, they themſelves expound this their opinion in this manner, that the dominion of all things belongs to the King, and the proprietie to the particular perſons, inſomuch as the one poſſeſſeth all by the right of command ing, the other by the Law of inheritance: We know, that it is a common ſaying amongſt the Civilians, that if any make claime to a houſe, or a ship, it followes not therefore that he can extend his right to all the furniture or lading. And therefore a King may challenge and gaine right to the Kingdome of *Germanie*, *France* and *England*: and yet notwithſtanding he may not lawfully take any honeſt mans eſtate from him, but by manifeſt injuſtice, ſeeing that they are things diverſe, and by Law diſtinguiſhed, to be poſſeſſors of the whole, and of all the particular parts.

*L. venditor. 13. D. de com. præd. divid.*

*Seneca lib. de benef. 7. C. 4. 5. 6.*

*L. nave. 36. D. de evictionibus.*

*Whether the King be the proper owner of the Kingdom.*

But the King, is he not Lord proprietor of the publick Revenue? We muſt handle this point ſomewhat more exactly then we did the former. In the firſt place, we muſt conſider that the revenue of the publick Excheaquer is one thing, & the proper patrimonie of the Prince an other, of different nature are the goods of the Emperor, King, or Prince; to thoſe of *Antonius*, *Henrie*, or *Philip*, thoſe are properly the Kings, which he injoyes as King, thoſe are *Antonius* his which he poſſeſſeth, as in the right of *Antonius*, the former he received from the people, the latter from thoſe of his blood, as inheritor to them.

This diſtinction is frequent in the books of the civill Law, where there is a difference ever made, betweene the patrimonie of the

the Empire, and that of the Emperor, the treasurie of *Cæsar* is one thing, and the Exchequer of the Common-wealth another, and both the one and the other have their severall procurers, there being diverse dispensers of the sacred and publick distributions, and of the particular & private expences, insomuch as he which as Emperor is preferred before a private man, in a grant by deed or chartell, may also sometime as *Antonius* give place to an inferiour person.

*L. bene à Zenone. C. de quod. præsc. C. unde quæst. Mag. lib. 12. C. l. fiscus. D. de jurefisci.*

In like manner in the Empire of *Germanie*, the revenue of *Ferdinand* of *Austria* is one thing, and the revenue of the Emperor *Ferdinand* is another: the Empire, and the Emperor have their severall treasurers: as also there is difference in the inheritances which the Princes derive from the houses of their ancestors, and those which are annexed to the Electorall dignities. Yea amongst the *Turks* themselves, *Selimus* his gardens and patrimoniall lands are distinguished from those of the publick, the one serving for the provision of the *Sultans* table, the other imploied onely about the *Turquish* affaires of State. There be notwithstanding Kingdomes as the *French* and *English*, and others in which the King hath no particular patrimony, but onely the publick which he received from the people, there this former distinction hath no place. For the goods which belongs to the Prince as a private person there is no question, he is absolute owner of them as other particular persons are, and may by the civill Law sell, ingage, or dispose of them at his pleasure. But for the goods of the Kingdome, which in some places are commonly called the *demeanes*, the Kings may not be esteemed nor called in any sort whatsoever, absolute Lords Proprietors of them. For what if a man for the flocks sake have made thee Shepheard, doth it follow that thou hast libertie, to flea, pill, sell, and transport the Sheepe at thy pleasure? Although the people have established thee Judge, or Governour of a Citie, or of some Province, hast thou therefore power to alienate, sell, or play away that City or Province? And seeing that in alienating or passing away a Province, the people also are sold, have they raised thee to that authority to the end thou shouldest seperate them from the rest, or that thou shouldest prostitute and make them slaves to whom thou pleasest? Furthermore I demand if the Royall dignity be a patrimony, or an Office? If it be an Office, what Communitty hath

quære. of what nature the ancient demeane is in England.

*L. cum servus 39. See vlt. D. de leg. 1. l. universi. 9. & l. seq. C de fundo patrim.*

it

it with any propriety? If it be a Patrimony, is it not such a one that at least the paramount propriety remaines still in the people which were the doners? Briefly if the revenue of the Exchequer, or the demeanes of the Kingdome, be called the dowrie of the Common-wealth, and by good right, and such a dowrie whose dismembring or wasting, brings with it the ruine of the publick State, the Kingdom and the King, by what Law shall it be lawfull to alienate this dowrie? Let the Emperor *Wenciſlaus* be infatuated, the *French* King *Charles* the sixt lunatick, and give or sell the Kingdom, or part of it to the *Engliſh*, let *Malcolme* King of the *Scots*, lavishly dissipate the demeanes and consume the publick treasure, what followes for all this? Those which choose the King to withstand the invasions of forrein enemies, shall they through his madnesse & negligence be made the slaves of strangers, and those meanes & wealth, which would have secured them in the fruition of their own estates and fortunes? Shall they by the election of such a King be exposed to the prey & rapine of all commers, and that which particular persons have saved from their own necessities, and from those under their tutorship and government, (as it hapned in *Scotland*) to indew the Common-wealth with it, shall it be devoured by some Pandar or Broker, for unclean pleasures.

But if as we have often said, that Kings were constituted for the peoples use, what shall that use be, if it be perverted into abuse? What good can so much mischiefe, and inconvenience bring, what profit can come of such eminent and irreparable dammages and dangers? If (I say) in seeking to purchase my own liberty & wellfare, I ingage my selfe into an absolute thraldome, and willingly subject my self to anothers Yoake, and become a fettered slave to another mans unruly desires, therefore as it is imprinted in all of us by nature, so also hath it by a long custome been approved by all Nations, that it is not lawfull for the King by the counsell of his own fancie and pleasure, to diminish or waste the publick revenue; and those which have run a contrar e course, have even lost that happy name of a King, and stood branded with the infamous title of a Tyrant.

I confesse that when Kings were instituted, there was of necessity means to be assigned for them, as well to maintain their Royall dignity, as to furnish the expence of their traine and Officers.

Civility

Civility, and the wellfare of the publick State, ſeeme to require it, for it was the duty of a King to eſtabliſh Judges in all places, who ſhould receive no preſents, nor ſell Juſtice: and alſo to have power readie to aſſiſt the execution of their Ordinances, and to ſecure the waies from dangers, that commerce might be open, and free, &c. If there were likelihood of warrs to fortifie and put Garriſons into the frontier places, and to hold an Armie in the field, and to keep his Magazins well ſtored with munition. It is commonly ſaid that peace cannot be well maintained without proviſion for warrs, nor warrs managed without men, nor men kept in diſcipline without pay, nor mony gotten without Subſidies, and Tributes.

To diſcharge therfore the burden of the State in time of Peace, was the demeane appointed, and in time of warrs the tributes and impoſts, yet ſo as if any extraordinary neceſſity required it, mony might be raiſed by Subſidies or other fitting meanes. The ſmall intendment of all, was ever the publick utility, in ſo much as he which converts any of theſe publick Revenues to his own private purpoſes, much more he which miſpends them in anyunworthy or looſe occaſions, no way merits the name of a King, for the Prince (ſaith the Apoſtle) is the miniſter of God for the good of the people: and for that cauſe is Tribute paid unto them. Rom 13.

This is the true originall cauſe of the cuſtomes, and impoſts of the *Romans*, that thoſe rich merchandiſes which were brought from the *Indies*, *Arabia*, *Ethiopia*, might be ſecured in their paſſage by land from theeves and robbers, & in their *tranſportation by Sea from Pirats, inſomuch as for their ſecurity, the Common-wealth maintained a Navy at Sea.* In this rank we muſt put the Cuſtome which was payd in the red Sea, and other Impoſts of gates, bridges, and paſſages, for the ſecuring of the great road waies, (therfore called the *Prætorian conſular*, and the Kings high-waies,) from the ſpoile of theeves and free-booters. The care alſo of the reparation of bridges was referred to Commiſſaries deputed by the King, as appeares by the Ordinance of *Lewis* the Courteous, concerning the 12. bridges over the River of *Seyne*, commanding alſo boats to be in a readineſſe, to ferrie over paſſingers, &c.

The ſame reaſon is recorded for all our Impoſts in England, with which a Navy was wont to be maintained at Sea.

Archi in Can. ſi quis Romi petas & pereg. 24. q 3. Balan c 1. Sect. conventicula, de pace iure iur. fir l. 2. D. ne quid in loco publ. vitium.

For the tax laid upon Salt there was none in uſe in thoſe times, the moſt of the Salt pits being injoyed by private perſons, becauſe it ſeemed that that which nature out of her own bountie preſented unto men, ought no more to be inhaunſed by ſale then

L. magis puto D. de rebus eorum.

either the light, the aire, or the water, as a certaine King called *Lycurgus* in the leſſer *Aſia*, began to lay ſome impoſitions upon the Salt pits there, nature as it were impatiently bearing ſuch a reſtraint of her liberality, the ſpringes are ſaid to drie up ſuddenly. Now although certain *Marmuſets* of the Court would perſwade us at this day, (as *Juvenal* complained in his time) that the Sea affords nothing of worth, or good, which falls not within the compaſſe of the Kings Prerogative.

Iuv. Sat 4. *Si quid palphurio, ſi crediderimus Armillato, Quicquid conſpicuum pulchrumq; ex æquore toto eſt, Res fiſci eſt, ubicunque natat.*

He that firſt brought this taxation into *Rome*, was the *Cenſor Livius*, who therefore gained the ſurname of *Salter*, neither was it done but in the Common-wealths extreame neceſſity. And in *France* King *Philip* the long, for the ſame reaſon obtained of the Eſtates the impoſition upon Salt for five years onely, what turmoiles and troubles the continuance thereof hath bred every man knowes. To be breife, all Tributes were impoſed, and continued for the proviſion of meanes and ſtipends for the men of war, ſo as to make a Province ſtipendarie or tributarie, was eſteemed the ſame with militarie.

1 King. 9. 15.

Behold wherefore *Solomon* exacted Tributes, to wit, to fortifie the Towns, and to erect and furniſh a publick magazine, which being accompliſhed, the people required of *Rehoboam* to be freed from that burden. The Turks call the Tribute of the Provinces, the *Sacred blood* of the people, and account it a moſt wicked crime to imploy it in any thing but the defence of the people. Wherefore by the ſame reaſon all that which the King conquers in warre belongs to the people, and not to the King, becauſe the people bore the charges of the war, as that which is gained by a factor accrues to the account of his maſter. Yea and what advantage he gaines by marriage, if it belongs ſimplie and abſolutely to his wife, that is acquired alſo to the Kingdom, for ſo much as it is to be preſumed that he gained not that preferment in marriage in quality of *Philip* or *Charles*, but as he was King. On the contrarie, in like manner the Queens have intereſt of indowment in the eſtates which their husbands gained and injoyed before they attained the Crown, and have no title to that which is gotten after they are created Kings, becauſe that is judged as the acquiſt of the Common purſe, and hath no proper reference to the Kings private eſtate, which was ſo determined in *France*, betwixt *Philip* of *Valois*, and his wife *Jeane* of *Burgundie*. But to the end that there be no money drawn from the people to

Poſtel. li. 3. de rep. Turc.

be

be imployed in private deſignes, and for particular ends and purpoſes; the Emperor ſwears, not to impoſe any Taxes or Tributes whatſoever, but by the authority of the Eſtates of the Empire. As much do the Kings of *Polonia*, *Hungarie*, and *Denmarke* promiſe: the *Engliſh* in like manner enjoy the ſame unto this day, by the Lawes of *Henry* the third, and *Edward* the firſt.

The *French* Kings in former times, impoſed no Taxes but in the Aſſemblies, and with the conſent of the three Eſtates; from thence ſprung the Law of *Philip* of *Valoys*, that the people ſhould not have any Tribute layd on them but in urgent neceſſity, and with the conſent of the Eſtates. Yea and anciently after theſe monies were collected they were locked in coffers, through every Dioceſſe and recommended to the ſpeciall care of ſelected men (who are the ſame which at this day are called Eſleus) to the end that they ſhould pay the ſouldiers enroled, within the Towns of their Dioceſſes: the which was in uſe in other Countries, as namely in *Flanders* and other neighbouring Provinces. At this day, though many corruptions be crept in, yet without the conſent and confirmation of the Parliament, no exactions may be collected, notwithſtanding there be ſome Provinces which are not bound to any thing, without the approbation of the Eſtates of the Countrey, as *Languedoke*, *Brittannie*, *Provinie*, *Daulphinie*, and ſome others. All the Provinces of the Low Countries have the ſame priviledges: finally leſt the Exchequer devour all, like the ſpleen which exhales the ſpirits from the other members of the body. In all places they have confined the Exchequer within its proper bounds and limits. Seeing then it is moſt certaine that what hath been ordinarily and extraordinarily aſſigned to Kings, to wit, Tributes, Taxes, and all the demeanes which comprehend all cuſtomes both for importations, and exportations, forfeitures, amercements, royall eſcheates, confiſcations, and other dews of the ſame nature, were conſigned into their hands for the maintainance and defence of the people, and the State of the Kingdom, inſomuch as if theſe ſinewes be cut, the people muſt needs fall to decay, and in demoliſhing theſe foundations the Kingdome will come to utter ruine. It neceſſarily follows, that he which layes impoſitions on the people onely to oppreſſe them, and by the publick detriment ſeeks private profit, and with their own ſwords kills his ſubject, he truely is unworthy the name of a King: Whereas contrarily, a true King as he is

a careful manaiger of the publick affairs, so is he a ready protector of the Common wellfare, and not a Lord in propriety of the Common-wealth, having as little authority to alienate or dissipate the demeans or publick Revenue, as the Kingdom it self. And if he mis-govern the State, seeing it imports the Common-wealth that every one make use of his own talent, it is much more requisite for the publick good, that he which hath the manna-ging of it, carrie himself as he ought.

And therefore if a prodigall Lord by the authority of justice, be committed to the tuition of his kinsmen and friends, and compelled to suffer his revenues and means to be ordered, and disposed of by others; by much more reason may those which have interest in the affairs of State, & whose duty obligeth them thereto, take all the Administration and government of the State out of the hands of him which either negligently executes his place, ruines the Common-wealth, if after admonition he indeavours not to performe his duty. And for somuch as it is easily to be proved, that in all lawfull Dominions the King cannot be held Lord in propriety of the demeane; without searching into those elder times, whereof we have an apt representation in the person of *Ephron* King of the *Hittites*, who durst not sell the Field to *Abraham* without the consent of the people. This right is at this day practised in publick States: the Emp: of *Germany* before his Coronation doth solemly swear that he will neither alienate, dismember, nor ingage any of the rights or members of the Empire. And if he recover, or conquer any thing with the Arms & means of the publick, it shall be gained to the Empire, and not to himself. Wherfore when *Charles* the 4th. promised each of the *Electors* an hundred thousand Crowns to choose his Son *Wenceslaus* Emperor, and having not ready money to deliver them, he morgaged Customs, Taxes, Tributes, and certain Towns unto them, which were the proper appurtenances of the Empire: whereon followed much and vehement contestation, most men holding this ingagement void. And questionlesse it had been so declared, but for the profit that those reaped thereby, which ought principally to have maintained and held intire the rights and dignities of the Empire. And it followed also, that *Wenceslaus* was justly held uncapable of the government of the Empire, chiefly because he suffered the rights of the Empire over the Duchy of *Milan* to be wrested from him.

Gen. 23.

*Sleyd. l. 1. & bulla aurea.*

*L. 1. & passim. de conser. alien. nauler. in Chron.*

There

There is a Law very ancient in the Kingdom of *Polonia*, which prohibits the alienating of any of the Kingdoms Lands; the which also was renewed by King *Lewis* in the yeer 1375. In *Hungary* in *anno* 1221. there was a complaint made to Pope *Honorius*, that King *Andrew* had ingaged the Crown Lands contrary to his oath. In *England* was the same by the Law of King *Edw*: in the yeer 1298. Likewise in *Spaine* by the Ordinance made under *Alphonsus*, and renewed in the yeer 1560. in the Assemblie of the Estates at *Toledo*. These Laws were then ratified, although long time before Custome had obtained the vigor and effect of Law. Now for the Kingdom of *France* whereto I longer confine my self, because she may in a sort passe as a pattern to the rest, this right hath ever remained there inviolable. It is one of the most ancient Laws of the Kingdom, and a right born with the Kingdom it self, that the Demain may not be alienated: the which Law in *anno* 1566. (although but ill observed) was renewed. There is onely 2. cases excepted, the portions or Apennages of the children and brothers of the King, yet with this reservation, that the right of Vassallage remains alwayes to the Crown: in like manner if the condition of War require necessarily an alienation, yet it must be ever with power of redemption. Anciently neither the one nor the other were of validitie, but by the commandment of the States: at this day since the *Parliament* hath been made sedentarie, the *Parliament* of *Paris* which is the Court of the Peers, and the Chamber of Accounts, and of the Treasurie, must first approve it: as the Edicts of *Charles* the sixt and ninth do testifie. This is a thing so certain, that if the ancient Kings themselves would endow a Church (although that was a work much favoured in those dayes) they were notwithstanding bound to have an allowance of the Estates: witnes King *Childebert*, who might not endow the Abbey of St. *Vincent* at *Paris* before he had the *French* and *Newstrasians* consent. *Clovis* the 2d. and other Kings have observed the same. They might neither remit the regalities by granting infranchisements, nor the nomination of Prelates to any Church. And if any of them have done it, as *Lewis* 11. *Philip* 4. and *Philip* surnamed *Augustus*, did in favour of the Churches of *Senis Auxera*, and *Nevers*, the *Parliament* hath declared it void. When the King is anointed at *Reims*, he swears to observe this Law: and if he infringe it, that Act hath as much validitie with it as if he contracted to sell the Empires of the great *Turk*, or *Sophie* of *Persia*. From this spring the Constitutions or Ordinances of *Philip* 6. of *John* 2d. of *Charles* 5th. 6th. and 8th. by which they revoke all alienations made by their Predecessors.

C. intellecto de jurejurando in Decretal. Polidor. Virgil. In cod. Hist. part 5. l. 5. constit. 9.

Papon Arestor. l. 5. tit. 10. Act. 4.

Sect. 5. 11. & 16. legis regiæ 1566.

Aimonius l. 4. cha. 41. &c.

L. pero. 69 Sect. prædium. D. de leg. 2. An. 1329. 1360. 1374. 1401. 1583.

Anno 1483. 1522. 1531. 1549. 1560. by divers Decrees of the Court of Parliament.

In the Assemblie of the Estates at *Tours*, where King *Charles* the 8th. was in person, divers alienations made by *Lewis* 11. were repealed, and annihilated, and there was taken away from the Heirs of *Tancred* of *Chastel* his great Minnion, divers places which he had given him by his proper Authoritie. This was finally ratified in the last Assemblie of the Estates held at *Orleans*. Thus much concerning the Kingdoms Demean. But to the end that we may yet more clearly perceive that the Kingdom is preferred before the King, and that he cannot by his own proper Authority diminish the Majestie he hath received from the people, nor infranchise or release from his Dominion any one of his Subjects; nor quit or relinquish the Soveraigntie of the least part of his Kingdom. *Charlemayn* in former times endeavoured to subject the Kingdom of *France* to the *German* Empire: the which the *French* did courageously oppose by the mouth of a Prince of *Glasconnie*; and if *Charlemayn* had proceeded in that businesse, it had come to the triall of the Sword. In like manner when any portion of the Kingdom was granted to the *English*, the soveraigntie was almost alwayes reserved. And if sometimes they obtain'd it by force, as at the Treatie of *Bretignie*, by the which king *John* quitted the Soveraignty of *Glasconnie* and *Poyton*: that agreement was not kept, neither was he more bound to do it, then a Tutor or Guardian is being prisoner (as he was then) which for his own deliverance should ingage the estate of his Pupils. By the power of the same Law the Parliament of *Paris* made void the Treatie of *Conflans*, by the which Duke *Charles* of *Burgundie* had drawn from the king *Amiens*, and other Towns of *Picardie*. In our dayes the same Parliament declared void the Agreement made at *Madrid*, between *Francis* the 1. then prisoner, and *Charles* the 5. concerning the Duchie of *Burgundie*. But the donation made by *Charles* the 6. unto *Henry* king of *England* of the kingdom of *France* after his decease is a sufficient testimony for this matter, and of his madnes, if there had been no other proof. But to leave off producing any further testimonies, examples, or reasons, by what right can the King give or sell away the kingdom or any part of it: seeing it consisteth of people, and not of earth or walls; and of Free-men there can be made no sale, nor traffick: yea, and the Patrons themselves cannot compell the infranchisde servants to make their habitations in other places then themselves like. The which is the rather to be allowed, in that Subjects are neither slaves, nor infranchisde servants, but brothers: and not onely the Kings brethren taken one by one, but also considered in one body, they ought to be esteemed absolute Lords, and owners of the Kingdom.

Paulus Æmilius, lib. 3.

Anno 1195. 1200. 1269. 1297. 1303. 1325. 1330.

Anno 1360.

Anno 1465.

Anno 1525.

Anno 1420. *Monstrelet*, chap. 225.

L. liber homo 103. D. de ver. obl. l. si empto 34. & l. D. de contr. emp. penule C de op. r. libert.

*Whether*

But if the King be not Lord in proprietie, yet at the leaſt we may eſteeme him uſufruictuor of the Kingdom, and of the Demean: nay truly we can allow him to have the uſufruit, for being uſufruictuor though the proprietie remain in the people, yet may he abſolutely diſpoſe of the profits, and ingage them at his pleaſure. Now we have already proved, that Kings of their own Authority cannot ingage the Revenues of the Exchequer, or the Demain of the Kingdom. The uſufruictuor may diſpoſe of the profits to whom, how, and when he pleaſeth. Contrarily the exceſſive gifts of Princes are ever judged void, his unneceſſary expences are not allowed, his ſuperfluous to be cut off, and that which is expended by him in any other occaſion, but for the publick utilitie, is juſtly eſteemed to be unjuſtly extorted. And is no leſſe liable to the Law *Cincea*, then the meaneſt *Roman* Citizen formerly was: In *France* the Kings gifts are never of force, untill the Chamber of Accounts have confirmed them. From hence proceed the poſtils of the ordinarie Chamber in the giving up of the Accounts in the Reigns of prodigall kings, *Trop donne: ſoyt repele*, which is, exceſſive gifts muſt be recalled. The Judges of this Chamber ſolemnly ſwear to paſſe nothing which may prejudice the Kingdom, or the publick State, notwithſtanding any letters the King ſhall write unto them: but they are not alwayes ſo mindfull of this oath as were to be deſired.

Furthermore, the Law takes no care how a uſufruictuor poſſeſſeth, and governes his revenues, but contrariwiſe ſhe preſcribes unto the King, how and to what uſe he ſhall imploy his. For the ancient Kings of *France*, were bound to divide their royall revenues into foure parts. The firſt was imployed in the maintaining of the Miniſters of the Church, and providing for the poore: The ſecond for the Kings table: The third for the wages of his Officers and houſhold ſervants: The laſt in the repairing of bridges, caſtles, and the royall Palaces. And what was remaining was layd up in the treaſurie, to be beſtowed on the neceſſities of the Common-wealth. And Hiſtories do at large relate the troubles and tumults, which hapned about the yeer 1412 in the Aſſemblie of the Eſtates at *Paris*, becauſe *Charles* the ſixt had waſted all the money that was raiſed of the revenues and demean, in his own and his minnions looſe pleaſures, and that the expences of the Kings houſhold which before exceeded not the ſumme of 94000. francks, did amount in that miſerable eſtate of the Common wealth to five hundred and fourty thouſand francks. Now as the demeane was imploied, in the before mentioned affaires: ſo the aydes were one-

Monſtrel in Car. 6.

ly

ly for the war and the taxes assigned for the payment of the men at armes, and for no other occasion. In other Kingdomes the King hath no greater authority, and in divers lesse, especially in the Empire of *Germanie*, and in *Poland*. But we have made choise of the Kingdome of *France*, to the end it be not thought this hath any speciall prerogative above others, because there perhaps the common-wealth receiveth the most detriment. Briefly as I have before said, the name of a King signifies not an inheritance, nor a Propriety, nor a usufruict, but a charge, office, and procuration. As a Bishop is chosen to look to the wellfare of the soul, so is the King established to take care of the body so far forth as it concerns the publick good: the one is dispensor of the heavenly treasure, the other of the secular; and what right the one hath in the Episcopall revenues, the same hath the other, and no greater in the Kingdoms demean. If the Bishop alien the goods of the Bishoprick, without the consent of the Chapter, this alienation is of no value, If the King alien the demeane without the approbation of the Estates, that is also void; one portion of the Ecclesiasticall goods ought to be imployed in the reparation of the Churches, the second in releiving of the poore, the third for the maintenance of the Church-men, and the fourth for the Bishop himselfe: We have seen before, that the King ought to divide into foure parts the Revenues of the Kingdoms demeane. The abuse of these times cannot infringe, or annihilate the right, for although the most part of the Bishops steale from the poor that which they profusely cast away on their pandars, and ruine and destroy their lands and woods, the calling of the Bishop is not for all that altered. Although that some Emperors have assumed to themselves an absolute power, that cannot invest them with any further right, because no man can be judge in his own cause. What if some Caracalla vaunt, he will not want money whilest the sword remaines in his custodie: The Emperor *Adrian* will promise on the contrary, so to discarge his office of Principalitie, that he will alwaies remember that the Common-wealth is not his, but the peoples: which one thing almost distinguisheth a King from a Tyrant. Neither can that act of *Attalus* King of *Pergamus* deigning the *Roman* people for heires to his Kingdome, nor that of *Alexander* for *Egypt*, nor *Ptolome* for the *Cyrenians*, bequeathing their Kingdomes to the same people, nor *Prasitagus* King of the *Iceniens*, which left his to *Cæsar*, draw any good consequence of right to those which usurpe that which by no just title belongs to them, nay by how much the intrusion is more violent; by so much the equity, & justice of the cause is more perspicuous:

Ex concil. Valent. in c. 1. de his quæ fiunt a prælat. absq; consensu capit.

ous: for what the *Romits* assumed under the colour of right, they would have made no difficulty if that pretext had been wanting to have taken by force: we have seen almost in our daies how the *Venetians* possest themselves of the Kingdom of *Cipres*, under pretence of an imaginarie adoption w^ch would have proved rediculous if it had not been seconded by power and armes. To which also may be not unfitly resembled the pretended donation of *Constantine* to Pope *Silvester*, for that straw of the decretist *Gratian*, was long since consumed and turned to ashes, neither is of more validity, the grant which *Lewis* the courteous made to Pope *Paschal* of the Citie of *Rome*, and part of *Italy*, because he gave that which hee possessed not, no man opposed it. But when his Father *Charlemain* would have united & subjected the Kingdome of *France* to the *Germane* Empire, the *French* did lawfully oppose it: and if he had persisted in his purpose, they were resolved to have hindered him, and defended themselves by armes. There can be to as little advantage alledged that act of *Solomons*, whom we read to have delivered twenty Towns to *Hiram* King of *Tire*: for he did not give them to him but for the securing of the Talents of gold which *Hiram* had lent him, and they were redeem'd at the end of the terme, as it appeares by the Text. Further, the soile was barren, and husbanded by the remaining *Canaanites*: But *Solomon* having redeemed it out of the hands of *Hiram*, delivered it to the *Israelites* to be inhabited and tilled. Neither serves it to much more purpose to alleadg that in some Kingdomes, there is no expresse agreement between the King and the people: for suppose there be no mention made, yet the law of nature teacheth us that Kings were not ordained to ruine, but to govern the Common-wealths, and that they may not by their proper authority alter or change the rights of the publique State, and although they be Lords, yet can they challenge it in no other quality, then as Guardians do in the tuition of their pupills; neither can wee account him a lawfull Lord, which deprives the Common-wealth of her liberty, and sels her as a slave. Briefly, neither can we also alleadg, that some Kingdomes are the proper acquists of the King himselfe, insomuch as they were not conquered by their proper meanes and swords, but by the hands, and with the wealth of the publique; and there is nothing more agreeable to reason, then that which was gained with the joynt faculties, and common danger of the publique, should not be alien'd

*Volater. l. Geogr. 3.*

1 Kings 9. 11.

2 Chron. 8. 2.

*L. 2. §. jus reipub. D. de administrat. rer. ad Civit. pert. l. tutor. 27. D. de admin. tut.*

*L. si fundum sect. si tut. D. depositi et exprissuis. Extravag. de rejudicata, c. intellecto.*

disposd of, without the consent of the States which represent the Common-wealth: and the necessity of this law is such, that it is of force amongst robbers and free-booters themselves. He which follows a contrary course, must needs ruine humane society. And although the *French* conquered by force of armes, the Countreyes of *Germany* and *Gaule*, yet this before mentioned right remaines still intire.

*L. 2. et passim. C. de interd. Com. rer. alienat.*

To conclude we must needs resolve, that Kings are neither proprietors, nor usu-fructuaries of the royall patrimony: but only administrators: and being so, they can by no just right attribute to themselves the propriety, use or profit of private mens estates, nor with as little reason the publique revennues, which are in truth only the Common-wealths.

But before we passe any further, we must here resolve a doubt. The people of *Israel* having demanded a King, the Lords said to *Samuel:* hearken unto the voice of the people: notwithstanding, give them to understand what shall be the manner of the King which shall reigne over them: *he will take your fields, your vineyards, your olive-trees, to furnish his owne occasions, and to enrich his servants*: briefly, *he will make the people slaves*. One would hardly believe in what estimation the Courtiers of our times hold this Text, when of all the rest of the holy Scripture they make but a jest. In this place the Almighty and all good God, would manifest to the *Israelites* their Levite, when that they had God himselfe even present with them, who upon all occasions appointed them holy Judges, and worthy Commanders for the Wars, would notwithstanding rather subject themselves to the disordered commandements of a vaine mutable man, than to the secure protection of the omnipotent and immutable God. Hee declares then unto them in what a slippery estate the King was placed, and how easily unruly authority fell into disordered violence, and Kingly power was turned into tyrannous wilfulnesse. Seeing the King that he gave them, would by prepostorous violence draw the sword of authority against them, and subject the equity of the lawes to his owne unjust desires: and this mischief which they wilfully drew on themselves, they would happily repent of, when it would not be so easily remedied. Briefly, this Text doth not describe the right of Kings, but what right they are accustomed to attribute to themselves: not what by the priviledge of their places they may justly doe: but what power for the

1 Sam. 8. 7. &c.

satisfying

ſatisfying of their owne luſts, they unjuſtly uſurp. This will manifeſtly appeare from the 17. Chapter of *Deuteronomy*, where God appoints a law for Kings. Here ſaies *Samuel* the *King will uſe his Subjects like ſlaves*: there God forbids the King *to lift his heart above his brethren*: to wit, *over his Subjects, whom he ought not to inſult over, but to cheriſh as his kinſmen. Hee will make Chariots, leavy horſe-men, and take the goods of private men*, ſaies *Samuel*: on the contrary in *Deutronomy*, he is exhorted *not to multiply horſe-men, nor to heape up gold and ſilver, nor cauſe the people to returne into Ægypt*, to wit, *into bondage*. In *Samuel* we ſee pictured to the life wicked *Ahab*, which by pernicious meanes gets *Nabaths* Vineyard: there *David*, who held it not lawfull to drinke that water which was purchaſed with the danger of his Subjects lives. *Samuel* fortels that the King demanded by the *Iſraelites*, in ſtead of keeping the lawes, would governe all according to his own fancie: on the contrary, God commands that his Law ſhould by the Prieſts be delivered into the hands of the King, to copie it out, and to have it continually before his eyes. Therefore *Samuel* being high Prieſt, gave to *Saul* the royall law contained in the 17. of *Deuteronomy*, written into a book, which certainly had been a frivolous act if the King were permitted to breake it at his pleaſure. Briefly, it is as much as if *Samuel* had ſaid, *You have asked a King after the manner of other Nations, the moſt of whom have Tyrants for their Governours*: You deſire a King to diſtribute juſtice equally amongſt you: but many of them think all things lawfull which their owne appetites ſuggeſts unto them; in the meane ſeaſon you willingly ſhake off the Lord, whoſe only will is equity and juſtice in the abſtract.

Deut. 17.

1 Kings 21.

2 Sam. 23. 16.

In *Herodotus* there is a hiſtory which plainly expreſſes, *how apt the royall government is to degenerate into tyranny*, whereof *Samuel* ſo exactly forewarns the people. *Deioces* much renowned for his juſtice, was firſt choſen Judge amongſt the *Medes*: preſently after, to the end hee might the better repreſſe thoſe which would oppoſe juſtice, he was choſen King, and inveſted with convenient authority, then he deſired a guard, after a Citadell to be built in *Ecbatana* the principall Citie of the Kingdome, with colour to ſecure him from conſpiracies and machinations of Rebels, which being effected, he preſently applies himſelfe to revenge the leaſt diſpleaſures which were offered him with the greateſt puniſhments.

*Herod. l. 2.*

Finally, no man might preſume to looke this King in the face,

and to laugh or cough in his preſence, was puniſhed with grievous torments. So dangerous a thing it is, to put into the hands of a weake mind (as all mens are by nature) unlimited power. *Samuel* therefore teacheth not in that place, that the authority of a King is abſolute: on the contrary hee diſcreetly admoniſheth the people not to enthrall their liberty under the unneceſſary yoake of a weak and unruly Maſter: he doth not abſolutely exclude the royall authority, but would have it reſtrain'd within its own limits: he doth not amplifie the Kings right with an unbridled and licentious liberty: but rather tacitely perſwades to put a bit into his mouth. It ſeemes that this advice of *Samuels* was very beneficiall to the *Iſraelites*, for that they circumſpectly moderated the power of their Kings, the which moſt Nations growne wiſe, either by the experience of their own, or their neighbours harmes, have carefully looked unto, as will plainly appear by that which follows.

An alliance or covenant between the K. & the people.

We have ſhewed already, that in the eſtabliſhing of the King, there were two alliances or covenants contracted: the firſt between God, the King, and the people, of which wee have formerly treated: the ſecond between the King and the people, of which wee muſt now ſay ſome-what. After that *Saul* was eſtabliſhed King, the royall Law was given him, according to which he ought to governe. *David made a Covenant in Hebron before the Lord*, that is to ſay, *taking God for witneſſe, with all the ancients of Iſrael, which repreſented the whole bodie of the people, & even then he was made King. Joas* alſo by the mouth of *Jehoiada* the High Prieſt, entered into Covenant *with the whole people of the land in the houſe of the Lord:* And when the Crowne was ſet on his head, together with it was the law of the Teſtimony put into his hand, which moſt expounds to be the law of God: likewiſe *Joſias* promiſeth *to obſerve and keepe the Commandements, Teſtimonies and Statutes comprized in the booke of the Covenant:* under which words are contained all which belongs to the duties both of the firſt and ſecond Table of the law of God. In all the before remembred places of the holy ſtory, it is ever ſaid *that a Covenant was made with all the people, with all the multitude, with all the Elders, with all the men of Juda:* to the end that we might know, as it is alſo fully expreſſed, that not only the principals of the Tribes, but alſo all the Milleniers, Centurions, and ſubalterne Magiſtrates ſhould meete together, each of them in the name, and for their Townes and Communalties, to covenant and

1 Sam. 10.27.
2 Sam. 5. 3.
1 Chron. 11.3.
2 King. 11.17. & 12.
2 Chron. 23.3.
2 King. 23.3.

contract

contract with the King. In this assembly was the creating of the King determined of: for it was the people that made the King, and not the King the people.

It is certain then, that the people by way of stipulation, require a performance of covenants, the King promises it. Now the condition of a Stipulator is in termes of law more worthy than of a promiser. The people asketh the King, whether he will govern justly and according to the lawes? He promiseth he will. Then the people answereth, and not before, that whilest he governes uprightly, they will obey faithfully. The King therefore promiseth simply and absolutely, the people upon condition: the which failing to be accomplished, the people rest according to equity and reason, quit from their promise.

In the first covenant, or contract, there is onely an obligation to piety: in the second, to justice. In that the King promiseth to serve God religiously: in this, to rule the people justly. By the one he is obliged with the utmost of his endeavours to procure the glory of God: by the other, the profit of the people. In the first there is a condition expressed, If thou keep my commandments: in the second, If thou distribute justice equally to every man. God is the proper revenger of deficiency in the former, and the whole people the lawfull punisher of delinquency in the latter, or the Estates, the representative body thereof, who have assumed to themselves the protection of the people. This hath been alwayes practised in all well-governed Estates. Amongst the *Persians*, after the due performance of holy Rites, they contracted with *Cyrus* in manner following.

*Thou, O Cyrus, in the first place, shalt promise, That if any make war against the Persians, or seek to infringe the liberty of the Lawes, thou wilt with the utmost of thy power defend and protect this countrey.* Which having promised, they presently adde, *And we Persians promise to be aiding to keep all men in obedience, whilest thou defendest the countrey.* *Zenophon* calls this agreement, *A Confederation*; as also *Isocrates* calls that which he writ of the duties of subjects towards their Princes, *A Discourse of Confideration.* The alliance or confederation was renewed every moneth between the Kings and *Ephores* of *Sparta*, although those Kings were descended from the line of *Hercules*. And as these Kings did solemnly swear, *Zenophon lib. 8. Paed.* *Zenoph. in tract. de repub. Lacedæ.*

to

to govern according to the Lawes, so did the *Ephores* also to maintain them in their authority, whilest they performed their promise. Likewise in the *Romane* Kingdome there was an agreement between *Romulus* the Senate, and the people, in this manner: *That the people should make Lawes, and the King looke they were kept: The people should decree warre, and the King should manage it.* Now although many Emperours rather by force and ambition, than by any lawfull right, were seas'd of the *Roman* Empire, and by that which they call a Royall Law, attributed to themselves an absolute authority; notwithstanding by the fragments which remain both in books, and in *Roman* Inscriptions, of that Law, it plainly appeares, that power and authority was granted them to preserve and govern the Common-wealth, not to ruine and oppresse it by tyranny. Nay, all good Emperours have ever professed, that they held themselves tied to the Laws, & received the Empire from the Senate, to whose determination they always referred the most important affairs, and esteemed it a great error without their advice to resolve on the occasions of the publick State.

If we take into our consideration the condition of the Empires, Kingdomes and States of times, there is not any of them worthy of those names, where there is not some such covenant or confederacy between the people and the Prince. It is not long since that in the Empire of Germany, the King of the *Romans* being ready to be crowned Emperour, was bound to doe homage, and make oath of Fealty to the Empire, no more nor lesse than as the vassall is bound to doe to his Lord when he is invested with his fee. Although the form of the words which he is to sweare, have been somewhat altered by the Popes, yet notwithstanding the substance still remains the same. According to which we know that *Charles* the fifth of the house of *Austria*, was under certain conditions chosen Emperour, as in the same manner his successors were, the summe of which was, that he should keep the Lawes already made, and make no new ones without the consent of the Electors, that he should govern the publick affaires by the advice of the generall Estates, nor ingage any thing that belongs to the Empire, and other matters which are particularly recited by the Historians. When the Emperour is crowned at *Aquisgrave*,

*Specul. Saxon. lib. 3. vrtic. 54.*

*grave*, the Archbishop of *Cullen* requires of him in the first place, If he will maintain the Church, if he will distribute justice, if he will defend the Empire, and protect Widowes, Orphans, and all other worthy of compassion: The which after he hath solemnly sworn before the Altar, the Princes also which represent the Empire, are asked, if they will not promise the same; neither is the Emperour anointed, nor receives the other Ornaments of the Empire, before he have first taken that solemn oath. Whereupon it followes, that the Emperour is tied absolutely, and the princes of the Empire, under condition. That the same is observed in the Kingdome of *Polonia*, no man will make question, who had but seen or heard of the ceremonies and rites wherewith *Henry* of *Anjoy* was lately chosen and crowned King of that Countrey, & especially then when the condition of maintaining of the two Religions, the Reformed and the *Roman*, was demanded, the which the Lords of the kingdome in expresse termes required of him three severall times, and he as often made promise to perform. The same is observed in the Kingdomes of *Bohemia*, *Hungary*, and others; the which we omit to relate particularly, to avoid prolixity. *Sleyd. lib. 2. & 2.*

Now this manner of stipulation is not onely received in those Kingdomes where the right of election is yet entirely observed; but even in those also which are esteemed to be simply hereditary, When the King of *France* is crowned, the Bishops of *Laon* and *Beauvois*, Ecclesiasticall Peeres, ask all the people there present, whether they desire and command, that he which is there before them, shall be their King? Whereupon he is said even then in the stile of the inauguration, to be chosen by the people: and when they have given the signe of consenting, then the King sweares that he will maintaine all the rights, priviledges, and lawes of *France* universally, that he will not aliene the Demeane, and the other Articles, which have been yet so changed and accomodated to bad intentions, as they differ greatly from that copie which remaines in the Library of the Chapter of *Beauvois*, according to which it is recorded, that King *Philip*, the first of that name, tooke his Oath at his Coronation; yet notwithstanding they are not unfitly expressed: Neither is he girded with the sword, nor anointed, nor crowned by the Peeres (who at that

time

time weare Coronets on their heads) nor receives the Scepter and rod of Juſtice, nor is proclaimed King, before firſt the people have commanded it: neither doe the Peeres take their oaths of alleageance before he have firſt ſolemnly ſworne to keepe the Lawes carefully.

And thoſe be, that he ſhall not waſte the publicke revenue, that he ſhall not of his own proper authoritie, impoſe any taxes, cuſtomes, or tributes: that he ſhall not make peace or warre, nor determine of State-affaires, without the adviſe of the Councell of State. Briefly, that he ſhould leave to the Parliament, to the States, and to the Officers of the Kingdome, their authoritie intire, and all things elſe which have been uſually obſerved in the Kingdome of *France*. And when he firſt enters any Citie or Province, he is bound to confirme their priviledges, and ſweares to maintaine their Lawes and Cuſtomes. This is ſtraitly obſerved in the Cities of *Tholouſe*, and *Rochel*, and in the Countries of *Daulphinie*, *Province*, and *Britaine*: The which Townes and Provinces have their particular and expreſſe Covenants and agreements with the Kings, which muſt needs be voyde, if the condition expreſſed in the Contract be not of force, nor the Kings tied to the performance.

*In Annal. Burgund.* There is the forme of the Oath of the ancient Kings of *Burgundie* yet extant in theſe words: *I will protect all men in their rights, according to Law and juſtice.*

In *England*, *Scotland*, *Sweden*, and *Denmarke*, there is almoſt the ſame cuſtome as in *France*: but in no place there is uſed a more diſcreet care in their manner of proceeding, than in *Spaine*. For in the Kingdome of *Arragon*, after the finiſhing of many Ceremonies, which are uſed between him, which repreſents the *Juſtitia major* of *Arragon*, which comprehends the majeſtie of the Common-wealth, ſeated in a higher ſeate, and the King, which is to be crowned, who ſweares fealtie, and does his homage: and having reade the Lawes and conditions, to the accompliſhment whereof he is ſworne.

Finally, the Lords of the Kingdome uſe to the King theſe words in the vulgar Language, as is before expreſſed, *page* 60. *Nos qui valemos tanto como vos, y podemos mas que* *Wee which are as much worth as you, and have more power than you, chooſe you King upon theſe and theſe conditions, and there is one be-*

*tween*

*tween you and us, which commands over you.* But leaſt the King ſhould thinke he ſwore onely for faſhion ſake, and to obſerve an olde cuſtome, every third yeare in full aſſemblie of the Eſtates, the very ſame words, and in the ſame manner are repeated unto him.

*vos, vos elegimos tui con eſtas è y eſtas conditiones, entra vos y nos un que manda mas que vos.*

And if under pretext of his royall dignitie he become inſolent, violating the Lawes, and neglect his publick faith and promiſe given, then by the priviledge of the Kingdome, he is judged, excommunicated, as execrable as *Julian* the Apoſtata was by the primitive Church: which excommunication is eſteemed of that validitie, that inſtead of praying for the King in their publick orayſons, they pray againſt him, and the ſubjects are by the ſame right acquit from their oath of Alleageance: as the vaſſall is exempted from obedience and obligation by oath to his Lord which ſtands excommunicated; the which hath been determined and confirmed both by act of Councell and Decree of State in the Kingdome of *Arragon.*

*In Concil. Toletan. 4. c. 74. & in Tolet. 6. lib. 2. feud. tit. 28. ſect. 1.*

In like manner, in the Kingdome of *Caſtile* in full aſſembly of the Eſtates, the King being readie to be crowned, is firſt in the preſence of all advertiſed of his dutie: and even then are reade the Articles diſcreetly compoſed for the good of the Common-wealth, the King ſweares he will obſerve and keepe them carefully and faithfully; which being done, then the Conſtable takes his oath of alleageance, after the Princes and Deputies for the Townes ſweare each of them in their order; and the ſame is obſerved in the Kingdomes of *Portugall, Leon,* and the reſt of *Spaine.* The leſſer principallities have their inſtitution grounded on the ſame right. The contracts which the *Brabancers* and the reſt of the *Netherlanders,* together with thoſe of *Auſtria, Carinthia,* and others, had with their Princes, were alwayes conditionall. But eſpecially the *Brabancers,* to take away all occaſion of diſpute, have this expreſſe condition: which is that in the receiving of their Duke, there is read in his preſence the ancient Articles, wherein is compriſed that which is requiſite for the publick good; and thereunto is alſo added, that if he doe not exactly and preciſely obſerve them, they may chooſe what other Lord it ſhall ſeeme good unto them; the which they doe in expreſſe words proteſt unto him. He having allowed and accepted of theſe Articles, doth in that publick aſſemblie promiſe and ſolemnly ſweare to keepe them. The which was

*La Joyeuſe entrée.*

*Ludovicus Guicciard. in Discript. Belgiæ.*

observed in the reception of *Philip* the second King of *Spaine*. Briefly, there is not any man can denie, but that there is a contract mutually obligatorie between the King and the Subjects, which requires the people to obey faithfully, and the King to governe lawfully, for the performance whereof the King sweares first, and after the people.

I would aske here wherefore a man doth sweare, if it be not to declare, that what he delivers he sincerely intends from his heart? Can any thing be judged more neere to the law of nature, than to observe that which we approve? Furthermore, what is the reason the King sweares first, and at the instance, and required by the people, but to accept a condition either tacite or expressed? Wherefore is there a condition opposed to the Contract, if it be not that in fayling to performe the condition, the contract according to law remaines voyde? And if for want of satisfying the condition by right, the contract is of no force: who shall dare to call that people perjured, which refuseth to obey a King which makes no account of his promise, which he might and ought to have kept, and wilfully breakes those lawes which he did sweare to observe? On the contrary, may we not rather esteeme such a King perfidious, perjured, and unworthy of his place? For if the Law free the vassall from his Lord, who dealt felloniously with him, although that to speake properly the Lord sweareth not fealtie to his vassall, but he to him: if the Law of the twelve Tables doth detest and hold in execration the protector that defraudeth him that is under his tuition: if the civill Law permit an infranchised servant to bring his action against his patron, for any grievous usage: if in such cases the same Law delivers the slave from the power of his Master, although the obligation be naturall onely and not civill: is it not much more reasonable that the people be loosed from that oath of alleageance which they have taken, if the King (who may be not unfitly resembled by an Atturney sworne to looke to his Clients cause) first breake his oath solemnly taken? And what if all these ceremonies, solemne oaths, nay sacramentall promises had never been taken? Doth not nature her selfe sufficiently teach that Kings were on this condition ordained by the people, that they should governe well? Judges that they should distribute justice uprightly? Captaines in the warre, that they should lead their Armes against their enemies: If on the contrary, they themselves forrage and spoile their

*L. 1. D. Act. l. non minorum 20. D. de transact*

*Lib. 2. feudor. tit. 26. §. 24. & tit. 47. Dionys. Halic. lib. 2.*

their ſubjects, and inſtead of governors become enemies, as they leave indeed the true and eſſentiall qualities of a King, ſo neither ought the people to acknowledge them for lawfull Princes. But what if a people (you will reply) ſubdued by force, be compeld by the King to take an oath of ſervitude? And what if a robber, pirate, or tyrant, (I will anſwer) with whom no bond of humane ſocietie can be effectuall, holding his dagger to your throate, conſtraine you preſently to become bound in a great ſum of money? Is it not an unqueſtionable Maxime in Law, that a promiſe exacted by violence cannot binde? eſpecially if any thing be promiſed againſt common reaſon, or the law of nature? Is there any thing more repugnant to nature and reaſon, than that a people ſhould manicle and fetter themſelves; and to be obliged by promiſe to the Prince, with their own hands and weapons to be their own executioners? There is therefore a mutuall obligation between the King and the people, which whether it be civill or naturall onely, whether tacite, or expreſſed in words, it cannot by any meanes be annihilated, nor by any Law be abrogated, much leſſe by force made voyde. And this obligation is of ſuch power, that the Prince which wilfully violates it, is a tyrant: and the people which purpoſely breakes it, may be juſtly termed ſeditious.

*Cicer. 1. Offic.*

Hitherto we have treated of a King, it now reſts wee doe ſomewhat more fully deſcribe a Tyrant. Wee have ſhewed that he is a King, which lawfully governes a Kingdome, either derived to him by ſucceſſion, or committed to him by Election. It followes therefore that he is reputed a tyrant, which as oppoſite to a King, either gaines a kingdome by violence, or indirect meanes, or being inveſted therewith by lawfull election or ſucceſſion, governes it not according to law and equitie, or neglects thoſe contracts and agreements, to the obſervation whereof he was ſtrictly obliged at his reception. All which may very well occurre in one and the ſame perſon. The firſt is commonly called a tyrant without title: the ſecond a tyrant by practiſe. Now it may well ſo come to paſſe, that he which poſſeſſeth himſelfe of a kingdome by force, to governe juſtly, and he on whom it deſcends by a lawfull title, to rule unjuſtly. But for ſo much as a kingdome is rather a right than an inheritance, and an office than a poſſeſſion: he ſeemes rather worthy the name of a tyrant, which unworthily acquits himſelfe of his charge, than he which entered into his place by a wrong dore. In

Who may truly be called tyrants?

*Ariſto. lib. 5. polit. c. 10.*

*Bartol. in tract. de tyrannide.*

the ſame ſence is the Pope called an intruder which entered by indirect means into the papacy: and he an abuſer which gover is il in it.

*Pithagoras* ſayes, *That a worthy ſtranger is to be preferr'd before an unworthy Citizen, yea though he be a Kinſman.* Let it be lawfull alſo for us to ſay, that a Prince which gained his Principality by indirect courſes, provided hee governe according to law, and adminiſter juſtice equally, is much to be preferred before him, which carrieth himſelfe tyrannouſly, although hee were legally inveſted into his government with all the Ceremonies and Rites thereunto appertaining.

For ſeeing that Kings were inſtituted to feede, to judge, to cure the diſeaſes of the people: Certainely I had rather that a Thiefe ſhould feede me, than a Shepherd devoure me: I had rather receive juſtice from a Robber, than out-rage from a Judge: I had better be healed by an Empirick, than poyſoned by a Doctor in Phyſicke. It were much more profitable for me to have my eſtate carefully managed by an intruding Guardian, than to have it waſted and diſſipated by one legally appointed.

And although it may be that ambition was his firſt ſolicitor, to enter violently into the government, yet may it perhaps appeare he affected it the rather to give teſtimonie of his equity and moderation in governing, witneſſe *Cirus*, *Alexander*, and the *Romans*, which ordinarily accorded to thoſe people they ſubdued, permiſſion to governe themſelves according to their owne lawes, cuſtomes, and priviledges, yea ſometimes incorporated them into the body of their owne ſtate: on the contrary, the Tyrant by practice ſeemes to extend the priviledge of his legall ſucceſſion, the better to execute violence and extortion, as may be ſeene in theſe dayes, not only by the examples of the *Turkes* and *Moſcovites*, but alſo in divers Chriſtian Princes: therefore the act of one which at the firſt was ill, is in ſome reaſonable time rectified by juſtice: whereas the other like an inveterate diſeaſe, the elder it growes, the worſe it affects the Patient.

*Xenophon. Plutachus in Alexand. in Æmilio, Cæſare. Livius, lib. 1. Suetonius in Cæſare, c. 75.*

*Auguſt. in lib. 4. c. 4. de civi. dei.*

Now if according to the ſaying of Saint *Auguſtine*, thoſe kingdomes where juſtice hath no place, are but a rapſodie of freebooters; they are in that, both the Tyrant without title, and he by practiſe alike, for that they are both thieves, both robbers, and both unjuſt poſſeſſors, as he certainly is no leſſe an unjuſt detayner which takes another mans goods againſt the

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owners will, than hee which employes it ill when it was taken before.

But the fault is without compariſon, much more greater of him which poſſeſſeth an eſtate for to ruine it, than of the other which made himſelfe Maſter of it to preſerve it.

Briefely, the Tyrant by practiſe vainely colouring his unjuſt extortions with the juſtice of his title, is much more blameable then the Tyrant without title, who recompenceth the violence of his firſt intruſion in a continued courſe of a legall and upright government.

But to proceed, there may be obſerved ſome difference amongſt Tyrants without title: For there are ſome which ambitiouſly invade their neighbours Countreyes, to enlarge their owne, as *Nimrod*, *Minus*, and the *Canaanites* have done. Although ſuch are term'd Kings by their owne people, yet to thoſe on whoſe confines they have encroached without any juſt right, or occaſion, they will be accounted Tyrants. Tyrants without title.

There be others which having attained to the government of an elective Kingdome, that endeavour by deceitfull meanes, by corruption, by preſent, and other bad practiſes, to make it become hereditary. For witneſſe whereof, wee neede not make ſearch into elder times; theſe are worſe than the former, for ſo much as ſecret fraud, as *Cicero* ſaith, *is ever more odious than open force.*

There be alſo others which are ſo horribly wicked, that they ſeeke to enthrall their own native Countrey like the viperous brood which gnaw through the entralls of their mother: as be thoſe Generals of Armies created by the people, who afterwards by the meanes of thoſe forces make themſelves maſters of the State, as *Cæſar* at *Rome* under pretence of the Dictatorſhip, and divers Princes of *Italy*.

There be women alſo which intrude themſelves into the government of thoſe kingdoms which the lawes only permit to the males, and make themſelves Queenes and Regents, as *Athalia* did in *Judah*, *Semiramis* in *Aſſyria*, *Agripina* in the *Roman* Empire in the Reign of her ſonne *Nero*, *Mammea* in *Alexander Severus* his time, *Semiamira* in *Heliogabaluſſes*; and certaine *Brunichildes* in the kingdome of *France*, who ſo educated their ſonnes [as the Queens of the houſe *Medicis* in theſe latter times] during their minority, that attaining

attaining to more maturity, their only care was to glut themselves in pleasures and delights: so that the whole management of affaires remain'd in the hands of their Mothers, or of their Minions, servants, and Officers. Those also are Tyrants without title, who taking advantage of the sloath, weakenesse, and dissolute courses of those Princes which are otherwise lawfully instituted, and seeking to cowrap them in a sleepy dreame of voluptuous idlenesse (as under the *French* Kings, especially those of the *Merovingian* line, some of the Mayres of the Palace have beene advanc'd to that dignity for such egregious services) transferring into their owne command all the royall authority, and leaving the King only the bare name. All which Tyrants are certainly of this condition, that if for the manner of their government they are not blameable: Yet for so much as they entered into that jurisdiction by tyrannous intrusion, they may justly be termed Tyrants without title.

Tyrants by practise.

Concerning Tyrants by practise, it is not so easie to describe them as true Kings. For reason rules the one, and selfe-will the other: the first prescribes bounds to his affections, the second confines his desires within no limits, what is the proper rights of Kings may be easily declared, but the outragious insolencies of Tyrants cannot without much difficulty be expres'd. And as a right angle is uniforme, and like to it selfe one and the same: so an oblique diversifies it selfe into various and sundry species: In like manner is justice and equity simple, and may be deciphered in few words: but injustice and injury are divers, and for their sundry accidents not to be so easily defin'd; but that more will be omitted then expres'd. Now although there be certaine rules by which these Tyrants may be represented (though not absolutely to the life:) yet notwithstanding there is not any more certaine than by conferring and comparing a Tyrants fraudulent sleights with a Kings vertuous actions.

A Tyrant lops off those eares which grow higher then the rest of the corne, especially where vertue make them most conspicuously eminent, oppresseth by calumnies, and fraudulent practises, the principall officers of the State, gives out reports of intended conspiracies against himselfe, that he might have some colourable pretext to cut them off, witnesse *Tiberius*, *Maximinus*, & others, which spared not their own kinsmen, cozens, and brothers.

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The King on the contrary doth not onely acknowledge, his brothers to be as it were conſorts unto him in the Empire: But alſo holds in the place of brothers all the principall Officers of the Kingdom, & is not ashamed to confeſſe that of them (inquality as deputed from the generall Eſtates) he holds the Crown.

The tyrant advanceth above and in oppoſition to the ancient and worthy Nobility, mean and unworthy perſons; to the end that theſe baſe fellowes being abſolutely his creatures, might applaud and apply themſelves to the fulfilling of all his looſe and unruly deſires. The King maintains every man in his Rank, honours and reſpects the Grandies as the Kingdomes friends, deſiring their good as well as his own.

The tyrant hates and ſuſpects diſcreet and wiſe men, and feats no oppoſition more than vertue, as being conſcious of his owne vitious courſes, and eſteeming his owne ſecurity to conſiſt principally in a generall corruption of all eſtates, introduceth multiplicity of Tavernes, Gaming-houſes, Maskes, Stage-playes, Brothel-houſes, and all other licentious ſuperfluities, that might effeminate and baſtardize noble ſpirits, as *Cyrus* did, to weaken and ſubdue the *Sardiens*: The King on the contrary allureth from all places honeſt and able men, and encourageth them by penſions and honours; and for ſeminaries of vertue, erects Schooles and Univerſities in all convenient places.

A tyrant as much as in him lies, prohibites or avoids all publick Aſſemblies, feares Parliaments, Diets and meetings of the generall Eſtates, flies the light, affecting (like the Bat) to converſe onely in darkneſſe; yea, he is jealous of the very geſture, countenance, and diſcourſe of his ſubjects. The King becauſe he converſes alwayes as in the preſence of Men and Angels, glories in the multitude, and ſufficiency of his Councellors, eſteeming nothing well done which is ordered without their advice, and is ſo farre from doubting or diſlaſting the publick meeting of the generall Eſtates, as he honours and reſpects thoſe Aſſemblies with much favour and affection.

*Machiavil in principe.*

*Ariſt. lib. 5. c. 11. polit.*

A tyrant nouriſheth and feedeth factions and diſſentions amongſt his ſubjects, ruines one by the help of another, that he may the eaſier vanquiſh the remainder, advantaging himſelfe by this diviſion, like thoſe diſhoneſt Surgeons which lengthen out their cures. Briefly, after the manner of that abominable *Vitellius*, he is not ashamed to ſay, that the ſtinke of a dead enemy, eſpecialy

eſpecially a ſubjects, yeelds a good ſavour. On the contrary, a good King endeavours alwayes to keep peace amongſt his ſubjects, as a father amongſt his children, choakes the ſeeds of troubles, and quickly heals the ſcarre; the execution even of juſtice upon rebels, drawing teares from his compaſſionate eyes; yea, thoſe whom a good King maintains and defends againſt a forrain enemy, a tyrant (the enemy of nature) compels them to turn the points of their ſwords into their own proper intrails. A tyrant fils his Garriſons with ſtrange Souldiers, builds Citadels againſt his ſubjects, diſarmes the people, throwes down their forts, makes himſelfe formidable with guards of ſtrangers, or men onely fit for pillage and ſpoyle, gives penſions out of the publick Treaſury to ſpies and calumniating informers, diſperſt through all Cities and Provinces. Contrariwiſe, a King repoſeth more his ſafety in the love of his ſubjects, than in the ſtrength of his Fortreſſes againſt his enemies, taking no care to inroll Souldiers, but accounts every ſubject as a man at arms to guard him, & builds forts to reſtrain the irruptions of forraine enemies, and not to conſtrain his ſubjects to obedience, in whoſe fidelity he putteth his greateſt confidence. Therefore it is that tyrants, although they have ſuch numberleſſe guards about them to drive off throngs of people from approaching them, yet cannot all thoſe numbers ſecure them from doubts, jealouſies and diſtruſts, which continually afflict and terrifie their timerous conſciences: yea in the middeſt of their greateſt ſtrength, the tyrannizer of tyrants, fear, maketh prize of their ſouls, and there triumphs in their affliction. A good King in the greateſt concourſe of people, is freeſt from doubts or fears, nor troubled with ſolicitous diſtruſts in his ſolitary retirements, all places are equally ſecure unto him, his own conſcience being his beſt guard. If a tyrant want civill broyles to exerciſe his cruell diſpoſition in, he makes warres abroad; erects idle and needleſſe trophees to continually imploy his tributaries, that they might want leaſure to think on other things, as *Pharaoh* did the *Jews*, and *Policrates* the *Samians*; therefore he alwayes prepares for, or threatens war, or at leaſt ſeemes ſo to doe, and ſo ſtil rather draws miſchief on, than puts it further off. A King never makes war, but compeld unto it, and for the preſervation of the publick; he never deſires to purchaſe advantage by treaſon, he never entreth into any war that expoſeth the Common-wealth to more danger than it affordeth probable hope of commodity.

*Livi. lib. 2. c. 1. Dionyſ. Halic. l. 5. de Arunte filio Porſennæ.*

Prov. 14. 28.

*Bartol. in tract de tyrannide.*

*Ægid. Rom. de reg. prin.*

*Cicero de Offic. lib. 1.*

A Tyrant leaves no deſigne unattempted by which he may fleece his Subjects of their ſubſtance, and turne it to his proper benefit, that being continually troubled in gaining meanes to live, they may have no leaſure nor hope how to regaine their liberty: On the contrary, the King knowes that every good Subjects purſe will be ready to ſupply the Common-wealths occaſion, and therefore believes he is poſſeſt of no ſmall treaſure, whilſt through his good governement his Subjects flow in all aboundance.

A Tyrant extorts unjuſtly from many to caſt prodigally upon two or three Minions, and thoſe unworthy; hee impoſeth on all, and exacteth from all, to furniſh their ſuperfluous and riotous expences: he builds his owne, and followers fortunes on the ruines of the publique: he drawes out the peoples blood, by the veines of their means, and gives it preſently to carouſe to his Court-leeches. But a King cuts off from his ordinary expences, to eaſe the peoples neceſſities, neglecteth his private ſtate, and furniſheth with all magnificence the publique occaſions; briefely is prodigall of his owne blood, to defend and maintain the people committed to his care.

If a Tyrant as heretofore *Tiberius*, *Nero*, *Commodus* and others, did ſuffer his Subjects to have ſome breathing time from unreaſonable exactions, and like ſpunges to gather ſome moyſture, it is but to ſqueeſe them out afterwards to his owne uſe: on the contrary, if a King doe ſometimes open a vaine, and draw ſome blood, it is for the peoples good, and not to be expended at his own pleaſure in any diſſolute courſes. And therefore as the holy Scripture compares the one to a *Shepheard*, ſo doth it alſo reſemble the other to a roaring *Lion*, to whom notwithſtanding the *Foxe* is oftentimes coupled. For a Tyrant as ſaies *Cice*, is *culpable in effect of the greateſt injuſtice that may be imagined, and yet be carrieth it ſo cunningly, that when hee moſt deceives, it is then that hee maketh greateſt appearance to deale ſincerely.* And therefore doth hee artificially counterfeit Religion and devotion, wherein ſaith *Ariſtotle*, hee *expreſſeth one of the moſt abſolute ſubtleties that Tyrants can poſſibly practiſe: hee doth ſo compoſe his countenance to piety, by that meanes to terrifie the people from conſpiring againſt him; who they may well imagine to be eſpecially favoured of God, expreſſing in all appearance ſo reverently to ſerve him.* He fains alſo to be exceedingly affected to the publique good; not ſo much for the love of it, as for feare of his owne ſafety.

Prov. 8. 15.

*Cicer. de offic. lib. 1.*

*Ariſt. lib. 5. polit. c. 11.*

Furthermore he deſires much to be eſteemed juſt, and loyall in ſome

affaires, purpoſely to deceive and betray more eaſily in matters of greater conſequence: much like thoſe thieves which maintaine themſelves by theſts and robberies, cannot yet long ſubſiſt in their trade, without exerciſing ſome parcell of juſtice in their proceedings. Hee alſo counterfeits the mercifull, but it is in pardoning of ſuch malefactors, in puniſhing whereof he might more truly gaine the reputation of a pittifull Prince.

To ſpeake in a word, that which the true King is, the Tyrant would ſeeme to be, and knowing that men are wonderfully attracted with, and inamoured of vertue, hee endeavours with much ſubtilty to make his vices appeare yet maſked with ſome ſhadow of vertue: but let him counterfeit never ſo cunningly, ſtill the Fox will be known by his taile: and although he fawne and flatter like a Spannell, yet his ſnarling and grinning will ever bewray his curriſh kind.

*Tho. Aquin.* in ſecund. ſecund. q. 12. art. 11.

Furthermore, as a well-ordered Monarchy partakes of the principall commodities of all other governements: So on the contrary, where tiranny prevailes, there all the diſcommodities of confuſion are frequent.

A Monarchy hath in this, conformity with an Ariſtocraty, that the moſt able and diſcreet are called to conſultations: Tiranny and Oligarchy accord in this, that their counſels are compoſed of the worſt and moſt corrupted. *And as in the Councell Royall, there may in a ſort ſeeme many Kings to have intereſts in the government, ſo in the other on the contrary, a multitude of Tyrants alwayes domineers.*

The Monarchy borrowes of the popular government the aſſemblies of the Eſtates, whither are ſent for Deputies the moſt ſufficient of Cities and Provinces, to deliberate of, and determine matters of State: the tiranny takes this of the Ochlocracie, that if ſhee be not able to hinder the convocation of the Eſtates, yet will ſhe endeavour by factious ſubtilties and pernicious practices, that the greateſt enemies of Order and Reformation of the State be ſent to thoſe Aſſemblies, the which we have known practiſed in our times. In this manner aſſumes the Tyrant the countenance of a King, and tyranny the ſemblance of a Kingdome, and the continuance ſucceeds commonly according to the dexterity wherewith it is managed: yet, as *Ariſtotle* ſays, *we ſhal hardly reade of any tyranny that hath out-laſted a hundred yearee: briefely the King principally regards the publique utility, and a Tyrants chiefeſt care is for his private commodity.*

But ſeeing the condition of men is ſuch, that a King is with much difficulty

difficulty to be found, that in all his actions only agreeth at the publique good, and yet cannot long subsist without expression of some speciall care thereof, we will conclude that where the Common-wealths advantage is most preferr'd, there is both a lawfull King and Kingdome; and where particular designes and private ends prevaile against the publique profit, there questionlesse is a Tyrant and tiranny.

Thus much concerning Tyrants by practise, in the examining whereof wee have not altogether fixed our discourse on the loose disorders of their wicked and licentious lives[a], which some say is the character of a bad man: but not alwayes of a bad Prince. If therefore the Reader be not satisfied with this description, besides the more exact representations of Tyrants which he shall finde in histories: he may in these our dayes behold an absolute modell of many living and breathing Tyrants: whereof *Aristotle* in his time did much complaine. Now at the last we are come as it were by degrees to the chiefe and principall point of the question. We have seene how that Kings[b] have beene chosen by God, either with relation to their Families or their persons only, and after installed by the people: In like manner what is the duty of the King, and of the Officers of the Kindome, how farre the authority, power, and duty both of the one & the other extends, and what and how sacred are the Covenants and contracts w^ch^ are made at the inauguration of Kings, and what conditions are intermixt, both tacite and expresse'd; finally who is a Tyrant without title, and who by practise, seeing it is a thing unquestionable that we are bound to obey a lawfull King, which both to God and people carrieth himselfe according to those Covenants whereunto he stands obliged, as it were to God himselfe, seeing in a sort he represents his divine Majestie: It now followes that we treate, how, and by whom a Tyrant may be lawfully resisted, and who are the persons that ought to be chiefely actors therein, and what course is to be held, that the action may be managed according to right and reason: we must first speak of him w^ch^ is commonly called a Tyrant without title. Let us suppose then that some *Nimus* having neither received outrage nor offence, invades a people over whom he hath no colour of pretension: that *Cæsar* seekes to oppresse his Countrey[c], and the *Roman* Common-wealth: that *Popiclus* endeavours by murthers and treasons to make the elective Kingdome of *Polonia* to become

[a] *Bartol in tract. de tiran. et de regim. Civi.*

[b] To whom it belongs to resist & suppresse Tyrats without title.

[c] *Otto Frising. chron.* l. 3 c. 7.

*Aimoni.* lib. 4. c. 1. *Gre. Turon.* lib. 4. c. 51. lib. 5. c. 39. lib. 8. c. 29.

hereditary to him and his posterity: or some *Brunichilde* drawes to her selfe and her Protadius the absolute government of *France*: or *Ebroinus* taking advantage of *Theodericks* weakneſſe and idleneſſe, gaineth the intire administration of the State, and oppreſſeth the people, what shall be our lawfull refuge herein?

First, The law of nature teacheth, and commandeth us to maintaine and defend our lives and liberties, without which life is scant worth the enjoying, against all injury and violence. Nature hath imprinted this by instinct in Dogs against Wolves, in Buls against Lions, betwixt Pigeons and Spar-hawkes, betwixt Pullen and Kites, and yet much more in man against man himselfe, if man become a beast: and therefore he which questions the lawfulneſſe of defending ones selfe, doth as much as in him lies question the law of nature. To this must be added the law of Nations, which distinguisheth poſſeſſions, and Dominions, fixes limits, and makes out confines, which every man is bound to defend against all invaders. And therefore it is no leſſe lawfull to reſiſt, *Alexander* the great, if without any right or being justly provoked, he invades a Countrey with a mighty Navy; as well as *Diomedes* the Pirate which scoures the Seas in a small veſſell. For in this case *Alexanders* right is no more than *Diomedes* his, but only hee hath more power to doe wrong, and not so easily to be compeld to reason as the other. Briefely, one may as well oppoſe *Alexander* in pillaging a Country, as a Theeſe in purloining a cloake, as well him when he seekes to batter downe the walls of a Citie, as a robber that offers to break into a private houſe. There is besides this, the civill law, or municipial laws of severall Countreyes which governs the societies of men, by certaine rules, some in one manner, some in another; some submit themselves to the government of one man, some to more; others are ruled by a whole Communalty, some absolutely exclude women from the Royall Throne, others admit them, theſe here chuſe their King deſcended of such a family, thoſe there make election of whom they pleaſe, besides other customes practiſed amongſt severall Nations. If therefore any offer either by fraud or force to violate this law, wee are all bound to reſiſt him, becauſe he wrongs that society to which wee owe all that we have, and would runne our Countrey, to the preſervation whereof, all men by nature; by law and by solemne oath are strictly obliged: insomuch that feare or negligence, or bad purpoſes, make us omit this

this dutie, wee may justly be accounted breakers of the Lawes, betrayers of our Countrey, and contemners of Religion. Now as the Law of Nature, of Nations, and the civill commands us to take Armes against such Tyrants: so is there not any manner of reason that should perswade us to the contrary; neither is there any oath, covenant, or obligation, publike or private, of power justly to restraine us: therefore the meaneſt private man may resist and lawfully oppose such an intruding tyrant. The Law *Julia* which condemnes to death those that raise rebellion against their Countrey or Prince, hath here no place: for he is no Prince which without any lawfull title invadeth the Common-wealth, or Confines of an other: nor he a rebell which by armes defends his Countrey: but rather to this had relation the Oath which all the youth of *Athens* were accustomed to take in the Temple of *Aglaura*: I will fight for Religion, for the Lawes, for the Altars, and for our possessions, either alone or with others, and will doe the utmost of my endeavour, to leave to posteritie our Countrey, at the least in as good estate as I found it. To as little purpose can the Lawes made against seditious persons be alledged here; for he is seditious which undertakes to defend the people, in opposition of order and publick Discipline; But he is no raiser, but a suppressor of sedition, which restraineth within the limits of reason, the subvertor of his Countries welfare, and publicke Discipline.

*L. ult. D. ad leg. Jul. Majestatis.*

*Bartol. in trac. de Guelph. & Gibellin.*

On the contrary to this, hath proper relation the Law of *Tyrannicides*, which honours the living with great and memorable recompences, and the dead with worthy Epitaphes, and glorious Statues, that have been their Countries Liberators from Tyrants; as, *Harmodius* and *Aristogiton* at *Athens*, *Brutus* and *Cassius* in *Greece*, and *Aratus* of *Sycione*. To these by a publike Decree were erected Statues, because they delivered their Countries from the tyrannies of *Pisistratus*, of *Cæsar*, and of *Nicocles*. The which was of such respect amongst the Ancients, that *Xerxes* having made himselfe Master of the Citie of *Athens*, caused to be transported into *Persia* the Statues of *Harmodius* and *Aristogiton*: afterwards *Seleucus* caused them to be returned into their former place: and as in their passage they came by *Rodes*, those famous Citizens entertained them with publick and stupendious solemnities, and during their abode there, they placed them in the choicest sacrestie of their gods. But the Law made against forsakers, and traytors, takes

*Plin. lib. 4. Alexand. ab Alex. lib. 6. cap. 4.*

*Ziphilm. in vita August.*

*Plutarch. in Arato.*

*Valer. Maxim. lib. 2, c. ultim.*

takes absolutely hold on those which are negligent and careleſſe to deliver their Countrey oppreſſed with tyrannie, and condemnes them to the ſame puniſhment, as thoſe cowardly Souldiers, which when they ſhould fight, either counterfeit ſickneſſe, or caſt off their Armes and run away. Every one therefore both in generall and particular, ought to yeeld their beſt aſſiſtance unto this: as in a publicke fire, to bring both hookes, and buckets, and water: wee muſt not ceremoniouſly expect that the Captaine of the Watch be firſt called, nor till the Governour of the Towne be come into the ſtreets; but let every man draw water and climb tothe houſe-top; it is neceſſary for all men that the fire be quenched. For if whileſt the *Gaules* with much ſilence and vigilancie ſeeke to ſcale and ſurpriſe the *Capitoll*, the Souldiers be drowſie with their former paines, the Watch buried in ſleepe, the dogges fayle to barke: then muſt the geeſe play the Sentinells, and with their gagling noyſe give an alarum. And the Souldiers and Watch ſhall be degraded, yea, and put to death: the geeſe for perpetuall remembrance of this deliverance, ſhall be alwayes fed in the *Capitoll*, and much eſteemed.

L. 3. & l. Omne delictum. §. ult. D. de re milit.

This of which wee have ſpoken, is to be underſtood of a tyranny not yet firmely rooted, to wit, whilſt a tyrant conſpires, machinates, and layes his plots and practiſes. But if he be once ſo poſſeſſed of the State, and that the people being ſubdued, promiſe and ſweare obedience: the Common-wealth being oppreſſed, reſigne their authoritie into his hands, and that the Kingdome in ſome formall manner, conſent to the changing of their Lawes: for ſo much certainly as then he hath gained a title which before he wanted, and ſeemes to be as well a legall as actuall poſſeſſor thereof, although this yoke were laid on the peoples necke by compulſion, yet muſt they quietly and peaceably reſt in the will of the Almightie, who at his pleaſure transferres Kingdomes from one Nation to another. Otherways there ſhould be no Kingdome whoſe juriſdiction might not be diſputed: and it may well chance that he which before was a tyrant without title, having obtained the title of a King, may free himſelfe from any tyrannous imputation by governing thoſe under him with equitie and moderation. Therefore then as the people of *Jurie* under the authoritie of King *Ezechias* did lawfully reſiſt the invaſion of *Senacherib* the *Aſſyrian*: So on the contrary was *Zedechias* and all his ſubjects

2 King. 24. and 25. Ierem. 37.

jects worthily punished, because that without any just occasion after they had done homage and sworne fealtie to *Nebuchadnezzar*, they rise in rebellion against him. For after promise of performance it is too late to repent: and as in battles every one ought to give testimony of his valour, but being taken prisoner, must faithfully observe Covenants: so it is requisite that the people maintaine their rights by all possible meanes: but if it chance that they be brought into the subjection of anothers will, they must then patiently support the dominion of the Victor. So did *Pompey Cato*, and *Cicero*, and others, performe the parts of good Patriots then when they tooke armes against *Cæsar*, seeking to alter the government of the State; neither can those be justly excused whose base feare hindred the happie successe of *Pompey* and his partakers noble designes. *Augustus* himselfe is said to have reproved one who rayled on *Cato*, affirming that he carried himselfe worthily and exceedingly affected to the greatnesse of his Countrey in courageously opposing the alteration which his contraries sought to introduce in the Government of the State, seeing all innovations of that nature are ever Authors of much trouble and confusion.

Furthermore, no man can justly reprehend *Brutus*, *Cassius*, and the rest, who killed *Cæsar*, before his tyrannicall authoritie had taken any firme rooting. And so were there Statues of brasse erected in honour of them by publick decree at *Athens*, and placed by those of *Harmodius* and *Aristogiton*, then when after the dispatching of *Cæsar* they retired from *Rome*, to avoyde *Mar: Antonie* and *Augustus* their revenge. But *Cinna* was certainly guiltie of sedition, who after a legall transferring of the peoples power into the hands of *Augustus*, is said to conspire against him. Likewise when the *Pepins* sought to take the Crowne of *France* from the *Merovingians*; as also when those of the line of *Capet* endeavoured to supplant the *Pepins*, any might lawfully resist them without incurring the crime of sedition: but when by publick counsell and the authoritie of the Estates, the kingdome was transferred from one familie to another, it was then unlawfull to oppose it. The same may be said if a Woman possesse her selfe of the Kingdome, which the Salick Law absolutely prohibites, or if one seeke to make a Kingdome meerly elective, hereditary to his offspring, while those Lawes stand in force, and are unrepealed by the

the authoritie of the generall Estates, which represent the body of the people. Neither is it necessary, in this respect, to have regard whether faction is the greater, more powerfull or more illustrious. Alwayes those are the greater number who are led by passion, than those that are ruled by reason, and therefore tyranny hath more servants than the Common-wealth. But *Rome* is there according to the saying of *Pompey*, where the Senate is, and the Senate is where there is obedience to the Lawes, love of libertie, and studious carefulnesse for the Countries preservation. And therefore though *Brennus* may seeme to be master of *Rome*: yet notwithstanding is *Rome* at veies with *Camillus*, who prepares to deliver *Rome* from bondage. It behoves therefore all true *Romans* to repaire to *Camillus*, and assist his Enterprise with the utmost of their power and endeavours. Although *Themistocles*, and all his able and worthiest companions leave *Athens*, and put to Sea with a navie of two hundred Gallies, notwithstanding it cannot be said that any of these men are banished *Athens*. But rather as *Themistocles* answered; These two hundred Gallies are more usefull for us than the greatest Citie of all *Greece*: for that they are armed and prepared for the defence of those which endeavour to maintaine and uphold the publick State.

*Plutarch. in vita Themist.*

But to come to other examples; it follows not that the Church of God must needs be alwayes in that place where the Arke of the Covenant is: for the *Philistines* may carry the Arke into the Temples of their Idols. It is no good argument, that because wee see the *Roman Eagles* waving in Ensignes, and heare their Legions named, that therefore presently wee conclude that the Armie of the *Romane* Common-wealth is there present: for there is onely and properly the power of the State where they are assembled to maintaine the libertie of the Countrey against the ravenous oppression of Tyrants, to infranchise the people from servitude, and to suppresse the impudency of insulting flatterers, who abuse the Princes weaknesse by oppressing his Subjects for the advantaging of their own fortunes, and containe ambitious minds from enlarging their desires beyond the limits of equitie and moderation. Thus much concerning Tyrants without title.

What may lawfully be done against Tyrants by practise.

But for Tyrants by practise, whether they at first gained their authoritie by the sword, or were legally invested therewith by a generall consent: It behooves us to examine this point with much

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wary circumſpection. In the firſt place we muſt remember, that all Princes are born men, and therefore reaſon and paſſion are as hardly to be ſeparated in them, as the ſoule is from the body whileſt the man liveth: We muſt not then expect Princes abſolute in perfection, but rather repute our ſelves happy if thoſe that govern us be indifferently good. And therefore although the prince obſerve not exact mediocrity in State-affaires, if ſometimes paſſion over-rule his reaſon, if ſome careleſſe omiſſion make him neglect the publick utility, or if he doe not alwayes carefully execute juſtice with equality, or repulſe not with ready valour an invading enemy; he muſt not therefore be preſently declared a tyrant. And certainly, ſeeing he rules not as a God over men, nor as men over beaſts, but is a man compoſed of the ſame matter, and of the ſame nature with the reſt: as we would queſtionleſſe judge that prince unreaſonably inſolent, that ſhould inſult over and abuſe his ſubjects, as if they were bruit beaſts; ſo thoſe people are doubtleſſe as much void of reaſon, which imagine a prince ſhould be compleat in perfection, or expect divine abilities in a nature ſo frail and ſubject to imperfection. But if a prince purpoſely ruine the Common-weale, if he preſumptuouſly pervert and reſiſt legall proceedings, or lawfull rights, if he make no reckoning of faith, covenants, juſtice nor piety, if he proſecute his ſubjects as enemies; briefly, if he expreſſe all or the chiefeſt of thoſe wicked practiſes we have ſo merly ſpoken of; then we may certainly declare him a tyrant, which is as much as an enemy both to God and men. We doe not therefore ſpeak of a prince leſſe good, but of one abſolute bad; not of one leſſe wiſe, but of one malicious and treacherous; not of one leſſe able judiciouſly to diſcuſſe legall differences, but as one perverſly bent to pervert juſtice and equity; not of an unwarlick, but of one furiouſly diſpoſed to ruine the people, and ranſack the State. For the wiſdome of a Senate, the integrity of a Judge, the valour of a Captain, may peradventure inable a weak prince to govern well: But a tyrans could be content that all the Nobility, the Councellors of State, and Commanders for the warres, had but one head, that he might rake it off at one blow: thoſe being the proper objects of his diſtruſt and feare, and by conſequence the principall ſubjects on whom he deſires to execute his malice and cruelty. A fooliſh prince, although (to ſpeak according to right

and equity) he ought to be deposed, yet may he perhaps in some sort be born withall: But a tyrant the more he is tollerated, the more he becomes intollerable.

Furthermore, as the Princes pleasure is not alwayes law, so many times it is not expedient that the people doe all that which may lawfully be done: for it may often-times chance, that the medicine proves more dangerous than the disease. Therefore it becomes wise men to try all wayes before they come to blowes, to use all other remedies before they suffer the sword to decide the controversie. If then those which represent the body of the people, foresee any iunovation or machination against the State, or that it be already imbarked into a course of perdition, their duty is, first to admonish the Prince, and not to attend, that the disease by accession of time, and accidents, becomes unrecoverable. For tyranny may be properly resembled unto a Feaver Hectick, the which at the first is easie to be cured, but with much difficulty to be known; but after it is sufficiently known, it becomes uncurable. Therefore small beginnings are to be carefully observed, and by those whom it concernes diligently prevented.

If the Prince therefore persist in his violent courses, and contemne frequent admonitions, addressing his designes onely to that end, that he may oppresse at his pleasure, and effect his own desires without feare or restraint, he then doubtlesse makes himselfe liable to that detested crime of *Tyranny*: and whatsoever either the law, or lawfull authority permits against a tyrant, may be lawfully practised against him. Tyrany is not onely a will, but the chiefe, and as it were the complement and abstract of vices. A Tyrant subverts the State, pillages the people, layes stratagems to intrap their lives, breaks promise with all, scoffes at the sacred obligation of a solemne oath, and therefore is he so much more vile than the vilest of usuall malefactors, by how much offences comitted against a generality, are worthy of greater punishment than those which concern onely particular and private persons. If Theeves and those that commit sacriledge, be declared infamous; nay, if they justly suffer corporall punishment by death, can we invent any that may be worthily equivalent for so outragious a crime?

Furthermore, we have already proved, that all Kings receive their

their Royall authority from the people, that the whole people considered in one body, is above and greater than the King: and that the King and Emperour are onely the prime and supreme governours and ministers of the Kingdome and Empire; but the people the absolute Lord and owner thereof. It therefore necessarily followes, that a tyrant is in the same manner guilty of rebellion against the Majesty of the people, as the Lord of a fee which feloniously transgresse the conditions of his investitures, & is liable to the same punishment, yea and certainly deserves much more greater than the equity of those lawes inflict on the delinquents. Therefore as *Barclus* sayes, He may either be deposed by those which are Lords in Soveraignty over him, or else justly punished according to the Law *Julia*, which condemnes those which offer violence to the publick. The body of the people must needs be the Soveraigne of those which represent it, which in some places are the Electors, Palatines, Peeres; in other, the Assembly of the generall Estates. And if the tyranny have gotten such sure footing, as there is no other meanes but force to remove him; then is it lawful for them to call the people to Arms, to inroll and raise forces, and to imploy the utmost of their power, and use against him all advantages and stratagems of warre, as against the enemy of the Common-wealth, and the disturber of the publick peace. Briefly, the same sentence may be justly pronounced against him, as was against *Manlius Capitolinus* at *Rome*. *Thou wast to me Manlius, when thou didst tumble down the Gaules that scaled the Capitole: But since thou art now become an enemy, like one of them, thou shalt be precipitated down from the same place from whence thou formerly tumbledst those enemies.*

In tract. de tyran. & in tract. de Regim. civit.

Valerius lib. 6. c. 3.

The Officers of the Kingdome cannot for this be rightly taxed of sedition: for in a sedition there must necessarily concurre but two parts, or sides, the which peremptorily contest together, so that it is necessary that the one be in the right, and the other in the wrong: That part undoubtedly hath the right on their side, which defends the Lawes, and strives to advance the publick profit of the Kingdome. And those on the contrary are questionlesse in the wrong, which breake the Lawes, and protect those that violate justice, and oppresse the Common-wealth. Those are certainly in the right way, as saith *Bartolus*, which endeavour to suppresse tyrannicall government, and those in the wrong which oppose

Bart. in tract de Guelph. & Gibell. arg. l. 3. Sect. cum igitur D. de vi & vi ar.

pose lawfull authority. And that must ever be accounted just, which is intended only for the publique benefit, and that unjust, which aimes chiefly at private commodity. Wherefore *Thomas Aquinas* saith, *That a tyrannicall rule having no proper addresse for the publique welfare, but only to satisfie a private will with increase of particular profit to the ruler, cannot in any reasonable construction be accounted lawfull, and therefore the disturbance of such a government cannot be esteemed seditious, much lesse traytorous*; for that offence hath proper relation only to a lawfull Prince, who indeed is an inanimated or speaking law; therefore seeing that he which employes the utmost of his meanes and power to annihilate the lawes, and quell their vertue and vigour, can no wayes be justly intitled therewith: So neither likewise can those which oppose and take armes against him, be branded with so notorious a crime. Also this offence is committed against the Common wealth: but for so much as the Common-wealth is there only where the lawes are in force, and not where a Tyrant devoures the State at his owne pleasure and liking, he certainly is quit of that crime which ruines the Majesty of the publique State, and those questionlesse are worthily protectors and preservers of the Common-wealth, who confident in the lawfulnes of their authority, and summoned thereunto by their duty, do courageously resist the unjust proceedings of the Tyrant.

*Tho. Aquin. 1. 2. secund. q. 12. art. 11. in fine.*

*L. 1. D. ad leg. Iul. majest.*

*Cicer. parad. 4.*

And in this their action wee must not esteeme them as private men and Subjects, but as the representative body of the people, yea and as the Soveraignty it selfe, which demands of his Minister an account of his administration. Neither can we in any good reason account the Officers of the Kingdome disloyall, who in this manner acquit themselves of their charge.

There is ever, and in all places, a mutuall and reciprocall obligation betweene the people and the Prince, the one promiseth to be a good and wise Prince, the other to obey faithfully, provided he govern justly. The people therefore is obliged to the Prince under condition: the Prince to the people simply and purely. Therefore if the Prince faile in his promise, the people is exempt from obedience, the contract is made void, the right of obligation of no force. Then the King if he governe unjustly is perjur'd, and the people likewise forsworne if they obey not his lawfull commands: but that people is truly acquit from all perfidiousnesse, which

which publiquely renounce the unjuſt dominion of a Tyrant, or he ſtriving unjuſtly by ſtrong hand to continue the poſſeſſion, doe conſtantly endeavour to expulſe him by force of armes.

It is therefore permitted the Officers of a Kingdome, either all, or ſome good number of them to ſuppreſſe a Tyrant; And it is not only lawfull for them to doe it, but their duty expreſſely requires it: and if they doe it not, they can by no excuſe colour their baſeneſſe. For the Electors Palatines Peers and other Officers of State muſt not thinke they were eſtabliſhed only to make pompeous paradoes and ſhowes, when they are at the Coronation of the King, habited in their robes of State, as if there were ſome Maſque or Interlude to be repreſented, or as if they were that day to act the parts of *Roland Oliver*, or *Renald*, and ſuch other perſonages on a Stage, or to counterfeit and revive the memory of the Knights of the round Table; and after the diſmiſſing of that dayes aſſembly, to ſuppoſe they have ſufficiently acquit themſelves of their duty, untill a receſſe of the like ſolemnity. Thoſe ſolemne Rites and Ceremonies were not inſtituted for vaine oſtentation, nor to paſſe as in a dumme ſhow to pleaſe the ſpectators, nor in childrens ſports as it is with *Horace*, to create a King in jeſt, but thoſe Grandees muſt know, that as well for office and duty as for honour, they are called to the performance of thoſe Rites, and that in them the Common wealth is committed and recommended to the King, as to her ſupreame and principall tutor, and protector, and to them as Coajutors and aſſiſtants to him. And therefore as the Tutors or Guardians (yea even thoſe that are appointed by way of honour) are choſen to have care of, & obſerve the actions and importments of him which holds the principall ranke in the tutor-ſhip, and to looke how he carrieth himſelfe in the adminiſtration of the goods of his pupill: ſo likewiſe are the former ordained to have an eye to the courſes of the King, for with an equivolent authority as the others for the pupill, ſo are they to hinder and prevent the dammage and detriment of the people, the King being properly reputed as the prime Guardian, and they his Coadjutors.

*L. 106. D. de reg. jur.*

*Vlp. l. 3. D. de adm. et perit. tut. et curat.*

*L. 27. D. tod.*

In like manner as the faults of the principall tutor who manages the affaires, are juſtly imputed to the coadjoynts in the tutor-ſhip, if when they ought and might, they did not diſcover his errors, and cauſe him to be depoſed, eſpecially failing in the main points

*L. 14. D. de adminiſt. et perit. tut. l. 3. D. de ſuſpec. tut. et cur.*

points of his charge, to wit, in not communicating unto them the affaires of his administration, in dealing unfaithfully in his place, in doing any thing to the dishonour or detriment of his pupill, in imbesilling of his goods or estate, or if hee be an enemy to his pupill: briefly, if either in regard of the worthlesseneſſe of his person, or weakneſſe of his judgment, he be unable well to discharge so weighty a charge. So also are the Peeres and principall Officers of the Kingdome accountable for the government thereof, and must both prevent, and if occasion require, suppreſſe the tyranny of the Prince, as also supply with their care and diligence his inability and weakneſſe.

Finally, If a Tutor omitting or neglecting to doe all that for his pupill, which a discreet Father of a family would and might conveniently performe, cannot well be excused, and the better acquitting him selfe of his charge, hath others as concealers and associates, joyned with him to oversee his actions: with much more reason may and ought the Officers of the Crown restraine the violent irruptions of that Prince, who insteed of a father, becomes an enemie to his people; seeing to speake properly, they are as well accountable for his actions wherein the publique hath intereſts, as for their owne.

l. 10. *et* 33. *D. de adm. et peric. tutor et Cur.*

Thoſe officers must also remember, that the King holds truly the first place in the administration of the State, but they the second, and so following according to their ranks; not that they should follow his courses, if he transgreſſe the lawes of equity and justice, not that if he oppreſſe the Common-wealth, they should connive to his wickedneſſe. For the Common-wealth was as well committed to their care as to his, so that it is not sufficient for them to discharge their owne duty in particular, but it behoves them also to containe the Prince within the limits of reason. Briefly they have both joyntly and severally promiſed with solemn oaths, to advance and procure the profit of the Common-wealth: although then that he forsweare himselfe, yet may not they imagine that they are quit of their promiſe, no more then the Biſhops, and Patriarks if they suffer an hereticall Pope to ruine the Church: yea they should esteeme themselves so much the more obliged to the observing of their oath: by how much they finde him wilfully dispos'd to rush on in his perfidious courses. But if there be collusion betwixt him and them, they are prevaricators, if they dissemble

they

they may juſtly be called forſakers, and traytors: If they deliver not the Common-wealth from tiranny, they may be truly rancke in the number of Tyrants: as on the contrary they are protectors, tutors, and in a ſort Kings, if they keepe and maintain the State ſafe and intire, which is alſo recommended to their care and cuſtody.

Although theſe things are ſufficiently certain of themſelves, yet may they be in ſome ſort confirmed by examples. The Kings of *Canaan* which preſſed the people of *Iſrael* with a hard, both corporall and ſpirituall ſervitude (prohibiting them all meetings and uſe of armes) were certainly Tyrants by practice, although they had ſome pretext of title. For, *Eglon* & *Jabin* had peaceably reigned almoſt the ſpace of twenty yeares, God ſtirred up extraordinarily *Ehud*, which by a politique ſtratagem killed *Eglon*, and *Debora* which overthrew the Armie of *Jabin*, and by this ſervice delivered the people from the ſervitude of Tirants, not that it was unlawfull for the ordinary Magiſtrates, the Princes of the Tribes, and ſuch other Officers to have performed it, for *Debora* doth reprove the ſluggiſh idleneſſe of ſome, and flatly deteſts the diſloyalty of others for that they failed to perforforme their duty herein. But it pleaſed God, taking commiſeration of the diſtreſſe of his people, in this manner to ſupply the defects of the ordinary Magiſtrates. Iudg. 4. & 3.

*Rehoboam* the ſonne of *Solomon* refuſed to diſburthen the people of ſome unneceſſary impoſts and burthens: and being petitioned by the people in the generall Aſſembly of the States, *he grew inſolent, and relying on the counſell of his Minions, arrogantly threatens to lay heavier burthens on them hereafter.* No man can doubt, but that according to the tenour of the contract firſt paſſed betweene the King and the people, the prime and principall Officers of the Kingdome had authority to repreſſe ſuch inſolence They were only blameable in this, that they did that by faction and diviſion, which ſhould more properly have beene done in the generall Aſſembly of the States: in like manner in that they transferred the Scepter from *Juda* (which was by God onely confin'd to that Tribe) into another linage: and alſo (as it chances in other affaires) for that they did ill and diſorderly manage a juſt and lawfull cauſe. Prophane hiſtories are full of ſuch examples in other Kingdomes. 1 King. 12. 6, &c.

*Brutus* Generall of the Souldiers, and *Lucretius* Governour of the Citie of *Rome*, assemble the people against *Tarquinius Superbus*, and by their authority thrust him from the royall Throne: Nay, which is more, his goods are confiscated: whereby it appeares that if *Tarquinius* had beene apprehended, undoubtedly hee should have beene according to the publique lawes corporally punished.

*Titus Livi. lib. 1.*

The true causes why *Tarquinius* was deposed, were because he altered the custome whereby the King was obliged to advise with the Senaee on all weighty affaires, that he made Warre and Peace according to his owne fancie, that he treated confederacies without demanding counsell or consent from the people or Senate: that he violated the Lawes whereof he was made Guardian: briefly that he made no reckoning to observe the contracts agreed between the former Kings, and the Nobility and people of *Rome*. For the *Roman* Emperours, I am sure you remember the sentence pronounced by the Senate against *Nero*, wherein he was judged enemie to the Common-wealth, and his body condemned to be ignominiously cast on the dung-hill: and that other pronounced against *Vitellius*, which adjudge him to be shamefully dismembred, and in that miserable estate trayled through the Citie, and at last put to death: another against *Maximinius* who was dispoild of the Empire, and *Maximus* and *Albinus* established in his place by the Senate. There might also be added many others drawne from unquestionable Historians.

The Emperour *Trajan* held not himselfe exempt from lawes, neither desired he to be spared if he became a Tyrant: for in delivering the Sword unto the great Provost of the Empire, he sayes unto him; *If I command as I should, use this sword for mee: but if I doe otherwayes, unsheath it against me.* In like manner the *French* by the authority of the States, and solicited thereunto by the Officers of the Kingdome, deposed *Childerick* the first, *Sigisbert*, *Theodoricke*, and *Childericke* the third, for their tyrannies, and chose others of another Family to sit on the Royall Throne. Yea they deposed some because of their idlenesse and want of judgment, who exposed the State in prey to Panders, Curtesans, Flatterers, and such other unworthy mushromes of the Court, who governed all things at their pleasure: taking from such rash *Phaetons* the bridle of government, left the whole body of the State and

people

people ſhould be conſumed through their unadviſed folly.

Amongſt others, *Theodoret* was degraded becauſe of *Ebroinus Dagobert* for *Plectude* and *Thibaud* his Pander, with ſome others: the Eſtates eſteeming the command of an effeminate Prince as inſupportable as that of a woman, and as unwillingly ſupporting the yoke of tyrannous Miniſters managing affaires in the name of a looſe and unworthy Prince, as the burden of a tyrant alone. To be briefe, no more ſuffering themſelves to be governed by one poſſeſſed by a Devill, than they would by the Devill himſelfe. It is not very long ſince the Eſtates compeld *Lewis* the eleventh (a Prince as ſubtile, and it may be as wilfull as any) to receive thirtie ſix Overſeers, by whoſe adviſe he was bound to governe the affaires of State. The deſcendants from *Charlemaine* ſubſtituted in the place of the *Merovingiens* for the government of the kingdome, or thoſe of *Capet*, ſupplanting the *Charlemains* by order of the Eſtates, and raigning at this day have no other nor better right to the Crowne, than what wee have formerly deſcribed; and it hath ever been according to Law permitted the whole body of the people repreſented by the counſell of the Kingdome, which are commonly called the Aſſembly of the States, to depoſe and eſtabliſh Princes, according to the neceſſities of the Common-wealth. According to the ſame rule wee reade that *Adolph* was removed from the Empire of *Germany* Anno 1296. becauſe for covetouſneſſe without any juſt occaſion, he invaded the Kingdome of *France*, in favour of the *Engliſh*, and *Wenceſlaus* was alſo depoſed in the yeare of our Lord 1400. Yet were not theſe Princes exceeding bad ones, but of the number of thoſe which are accounted leſſe ill. *Elizabeth* the wife of *Edward* the ſecond King of *England*, aſſembled the Parliament againſt her husband, who was there depoſed, both becauſe he tyrannized in generall over his Subjects, as alſo for that he cut off the heads of many noble men, without any juſt or legall proceeding. It is not long ſince *Chriſtierne* loſt the Crowne of *Denmarke*, *Henry* that of *Sweden*, *Mary Steward* that of *Scotland*, for the ſame, or neere reſembling occaſions: and the moſt worthy Hiſtories relate divers alterations and changes which have hapned in like manner, in the Kingdomes of *Polonia*, *Hungarie*, *Spaine*, *Portugall*, *Bohemia*, and others.

*Anno* 1296.

1400.

*Froiſard. li.* 1. *cap.* 1.

Reade the manner of the depoſing of *Richard* the ſecond.

But what ſhall we ſay of the Pope himſelfe? It is generally held that the Cardinalls becauſe they doe elect him, or if they fayle in their

*Ant: de But. conſil quod poſitum eſt inter*

their dutie, the Patriarkes which are next in ranke to them, may upon certaine occaſions maugre the Pope, call a Councell, yea, and in it judge him: As when by ſome notorious offence he ſcandalizeth the univerſall Church: if he be incorrigible, if reformation be as neceſſary in the head as the members, if contrary to his oath he refuſe to call a generall Councell. And we reade for certaine that divers Popes have been depoſed by generall Councells. But if they obſtinately abuſe their authoritie, there muſt (ſaith *Baldus*) firſt be uſed verball admonitions; ſecondly, herball medicaments or remedies; thirdly, ſtones or compulſion; for where vertue and faire meanes, have not power to perſwade, there force and terror muſt be put in ure to compell. Now if according to the opinions of moſt of the learned, by decrees of Councels, and by cuſtome in like occaſions, it plainly appeares that the Councell may depoſe the Pope, who notwithſtanding vaunts himſelfe to be the King of Kings, and as much in dignitie above the Emperour, as the Sunne is above the Moone, aſſuming to himſelfe power to depoſe Kings and Emperours when he pleaſeth. Who will make any doubt or queſtion, that the generall Aſſembly of the Eſtates of any kingdome, who are the repreſentative body thereof, may not onely degrade and diſthronize a tyrant: but alſo even diſauthorize and depoſe a King, whoſe weakneſſe or folly is hurtfull or pernicious to the State.

*conſil. Paul. de Caſtro, vel antiq. nu. 412. incip. viſo puncto.*

*Mar. Laudenſ. in tract. de Card. in 2. q. 35. Philip. Decius in quodam conſilio cujus verba ſuerunt. Andr. Barb. in d. conſil. 1. lib. 1. cap. 6. Bald. in c. olim. col. penul. de reſcri. in Decretal. Boniſ. 8. de major. & obed.*

*Simile.*

But let us ſuppoſe that in this our Ship of State, the Pilot is drunke, the moſt of his aſſociates are aſleepe, or after large and unreaſonable tipling together, they regard their imminent danger in approaching a rocke with idle and negligent jollitie; the Ship in the meane ſeaſon in ſtead of following her right courſe, that might ſerve for the beſt advantage of the owners profit, is ready rather to ſplit her ſelfe. What ſhould then a Maſters-mate or ſome other under-Officer doe, who is vigilant and carefull to performe his dutie? Shall it be thought ſufficient for him to pinch or poule them which are aſleepe? without daring in the meane time to put his helping hand to preſerve the Veſſell, which runnes on a courſe to deſtruction, leaſt he ſhould be thought to intermeddle with that which he hath no authoritie nor warrant to doe? What mad diſcretion, nay rather notorious impietie were this? Seeing then that Tyranny, as *Plato* ſaith, is a drunken frenſie or frantick drunkenneſſe, if the Prince endeavour to ruine the Common-wealth, and the

*Plato lib. 8. & 9. de repub.*

the principall Officers concurre with him in his bad purpoſes, or at the leaſt are luld in a dull and drowſie dreame of ſecuritie, and the people (being indeed the true and abſolute owner and Lord of the State) be through the pernicious negligence and fraudulent connivency of thoſe Officers brought to the very brim of danger and deſtruction, and that there be notwithſtanding amongſt thoſe unworthy Miniſters of State, ſome one that doth ſtudiouſly obſerve the deceitfull and dangerous encroachments of tyranny, and from his ſoule deteſts it. What oppoſition doe wee ſuppoſe beſt befits ſuch a one to make againſt it? Shall he conſent himſelfe to admoniſh his aſſociates of their dutie, who to their utmoſt abilitie endeavour the contrary? Beſides, that ſuch an advertiſement is commonly accompanied with too much danger, and the condition of the times conſidered, the very ſolliciting of reformation will be held as a capitall crime: ſo that in ſo doing he may be not unfitly reſembled to one that being in the middeſt of a deſert, environed with theeves, ſhould neglect all meanes of defence, and after he had caſt away his Armes, in an eloquent and learned diſcourſe commend juſtice, and extoll the worth and dignitie of the Lawes. This would be truly according to the Proverbe, *To run mad with reaſon.* What then? Shall he be dull and deafe to the groanes and cries of the people? Shall he ſtand ſtill and be ſilent when he ſees the theeves enter? Shall he onely hold his hands in his boſome, and with a demure countenance, idlely bewaile the miſerable condition of the times? If the Lawes worthily condemne a Souldier, which for feare of the enemies counterfeits ſickneſſe, becauſe in ſo doing he expreſſeth both diſloyaltie and treachery. What puniſhment can we invent ſufficient for him, who either maliciouſly or baſely betrayes thoſe whoſe protection and defence he hath abſolutely undertaken and ſworne? Nay rather then let ſuch a one cheerefully call one, and command the Mariners to the performance of their dutie: let him carefully and conſtantly take order that the Common-wealth be not indamaged, and if need ſo require, even in deſpite of the King, preſerve the Kingdome, without which the kingly title were idle and frivolous, and if by no other meanes it can be effected, let him take the King and binde him hand and foote, that ſo he may be more conveniently cured of his frenſie and madneſſe. For as wee have already ſaid, all the adminiſtration of the Kingdome, is not by the people abſolutely reſigned into the

*Simile.*

L. 3. & l. Omne delictum. §. ult. D. de re milit.

*c. Nullus in Carthagin. Concil. Doctores pontificii.*

hands of the King; as neither the Bishopricke, nor care of the universall Church, is totally committed to the Pope: but also to the care and custody of all the principall Officers of the Kingdome. Now for the preserving of peace and concord amongst those which governe, and for the preventing of jealousies, factions, and distrusts amongst men of equall ranke and dignitie, the King was created as prime and principall Superintendent in the government of the Common-wealth. The King sweares that his most speciall care shall be for the welfare of the Kingdome; and the Officers of the Crowne take all the same oath. If then the King, or divers of them falsifying their faith, ruine the Common-wealth, or abandon her in her greatest necessitie, must the rest also fashion themselves to their base courses, and quit all care of the States safetie; as if the bad example of their companions, absolved them from their oath of fidelitie? Nay, rather on the contrary, in seeing them neglect their promise, they shall best advantage the Common-wealth in carefully observing theirs: chiefly because for this reason they were instituted, as in the steads of *Ephori*, or publick Controllers, and for that every thing gaines the better estimation of just and right in that it is mainly and principally addressed to that end for which it was first ordained.

Furthermore, if divers have joyntly vowed one and the same thing, is the obligation of the one annihilated by the perjurie of the other? If many become bound for one and the same summe, can the banquerouting of one of the obligees quit the rest of their ingagement? If divers tutors administer ill the goods of their pupill, and that there be one amongst them that makes conscience of his actions, can the bad dealing of his companions acquit him? Nay rather on the contrary, he cannot free himselfe from the infamie of perjurie, if to the utmost of his power he doe not truely discharge his trust, and perform his promise: neither can the others defalliancy be excused, in the bad managing of the tutorship, if they likewise accuse not the rest that were joyned with them in the administration, for it is not onely the principall tutor that may call to an account those which are suspected to have unjustly or indiscreetly ordered the affaires of their pupill, but even those which were formerly removed, may also upon just occasion discharge and remove the delinquents therein. Therefore those which are obliged to serve a whole Empire or Kingdome, as the Constable,

*L. 3. D. de administ. & peric. tutor. & cur. lib. 3. D. de suspect. tut. & cura.*

Conſtable, Marſhals, Peeres, and others, or thoſe which have particular obligations to ſome Provinces, or Cities, which make a part or portion of the Kingdome, as Dukes, Marquiſſes, Earles, Sheriffes, Mayors, and the reſt, are bound by the dutie of their place, to ſuccour the Common-wealth, and to free it from the burden of Tyrants, according to the ranke and place which they hold of the people next after the King. The firſt ought to deliver the whole Kingdome from tyrannous oppreſſion: the other as tutors, that part of the Kingdome whoſe protection they have undertaken: the dutie of the former is to ſuppreſſe the Tyrant: that of the latter, to drive him from their confines. Wherefore *Mattathias* being a principall man in the State, when ſome baſely connived, others pernitiouſly conſorted with *Antiochus* the tyrannous oppreſſor of the Jewiſh Kingdome, he couragiouſly oppoſing the manifeſt oppreſſion, both of Church and State, incourageth the people to the taking of Armes, with theſe words; *Let us reſtore the decayed eſtate of our people, and let us fight for our people, and for the Sanctuarie.* Whereby it plainly appeares, that not for Religion onely; but even for our Countrey, and our poſſeſſions, wee may fight, and take armes againſt a tyrant, as this *Antiochus* was. For the *Machabites* are not by any queſtioned, or reprehended for conquering the Kingdome, and expelling the tyrant, but in that they attributed to themſelves the royall dignitie, which onely belonged by Gods ſpeciall appointment to the tribe of *Juda*. 1 Machab. 3. 43.

Humane Hiſtories are frequently ſtored with examples of this kinde. *Arbactus* Governour of the *Medes* killed effeminate *Sardanapalus*, ſpinning amongſt women, and ſportingly diſtributing all the treaſures of the Kingdome amongſt thoſe his looſe companions. *Vindex* and *Galba* quit the partie of *Nero*, yea though the Senate connived, and in a ſort ſupported his tyrannie, and drew with them *Gallia*, and *Spaine*, being the Provinces whereof they were Governours. *Juſtin. lib.* 1. *Diodor. lib.* 2. *cap.* 37.

But amongſt all, the Decree of the Senate of *Sparta* is moſt notable, and ought to paſſe as an undeniable Maxime amongſt all Nations. The *Spartans* being Lords of the City *Bizantium*, ſent *Olarchus* thither for Governour and Commander for the warres; who took Corn from the Citizens, and diſtributed it to his Souldiers. In the mean time the families of the Citizens died for hunger:

ger: *Anaxilaus*, a principall man of the Citie, disdaining that tyrannous usage, entred into treaty with *Alcibiades* to deliver up the Town, who shortly after was received into it. *Anaxilaus* being accused at *Sparta* for the delivery of *Bizantium*, pleaded his cause himselfe, and was there acquit by the Judges: for (said they) warres are to be made with enemies, and not with Nature. Nothing being more repugnant to Nature, than that those which are bound to defend a City, should be more cruell to the inhabitants, than their enemies that besiege them.

This was the opinion of the *Lacedemonians*, certainly just Rulers, Neither can he be accounted a just King, which approves not this sentence of absolution: for those which desire to govern according to the due proportion of equity and reason, take into consideration as well what the Law inflicts on tyrants, as also what are the proper rights and bounds both of the Patritian and Plebeian orders. But we must yet proceed a little further: There is not so mean a Mariner, but must be ready to prevent the ship-wrack of the vessell, when either the negligence or wilfulnesse of the Pilot casts it into danger. Every Magistrate is bound to relieve, and as much as in him lies, to redresse the miseries of the Common-wealth, if he shall see the Prince, or the principall Officers of State his associates, by their weaknesse or wickednesse, to hazard the ruine thereof. Briefly, he must either free the whole kingdome, or at least that portion especially recommended to his care, from their imminent and incroaching tyranny. But hath this duty proper relation to every one: Shall it be permitted to *Hendonius Sabinus*, to *Eunus Suranus*, or to the Fencer *Spartanus*; or to be briefe, to a meere private person, to present the bonnet to slaves, put Armes into the hands of subjects, or to joyn battell with the prince, although he oppresse the people with tyranny? No certainly: The Common wealth was not given in charge to particular persons considered one by one; but on the contrary, particulars even as Papists, are recommended to the care of the principall Officers and Magistrates; and therefore they are not bound to defend the Common-wealth, which cannot defend themselves. God nor the people have not put the sword into the hands of particular persons: Therefore if without commandment they draw the sword, they are seditious, although the cause seem never so just.

*L. 2. de Seditiosis.*

Further-

Furthermore, the prince is not eſtabliſht by private and particular perſons, but by all in generall conſidered in one intire body; whereupon it followes, that they are bound to attend the commandment of all, to wit, of thoſe which are the repreſentative body of a kingdom, or of a Province, or of a Citie, or at the leaſt of ſome one of them, before they undertake any thing againſt the prince. For as a pupill cannot bring an action, but being avowd in the name of his Tutor, although the pupill be indeed the true proprietor of the eſtate, and the tutor onely owner with reference to the charge committed unto him: ſo likewiſe the people may not enterpriſe actions of ſuch nature, but by the command of thoſe, into whoſe hands they have reſigned their power and authority, whether they be ordinary Magiſtrates, or extraordinary, created in the Aſſembly of the Eſtates; whom, if I may ſo ſay, for that purpoſe, they have girded with their ſword, and inveſted with authority, both to govern and defend them, eſtabliſht in the ſame kind as the Pretor at *Rome*, who determined all differences between maſters and their ſervants, to the end that if any controverſie happened between the King and the ſubjects, they ſhould be Judges and preſervers of the right, leſt the ſubjects ſhould aſſume power to themſelves to be judges in their own cauſes. And therefore if they were oppreſt with tributes, and unreaſonable impoſts, if any thing were attempted contrary to covenant and oath, and no Magiſtrate oppoſed thoſe unjuſt proceedings, they muſt reſt quiet, and ſuppoſe that many times the beſt Phyſitians both to prevent and cure ſome grievous diſeaſe, do appoint both letting blood, evacuation of humors, & lancing of the fleſh; and that the affaires of this world are of that nature, that with much difficulty one evill cannot be remedied without the adventuring if not the ſuffering of another, nor any good be atchieved, without great pains. They have the example of the people of *Iſrael*, who during the reigne of *Solomon*, refuſed not to pay thoſe exceſſive taxes impoſed on them, both for the building of the Temple, and fortifying of the Kingdome, becauſe by a generall conſent they were granted for the promulgation of the glory of God, and for an ornament and defence of the publick State.

*L. 8. l. 9. D. de auctо. & conſ. int. & cur.*

*Seneca lib. 1. de Benefic.*

They have alſo the example of our Lord and Saviour Jeſus Chriſt, who though he were King of Kings, notwithſtanding becauſe

becauſe he converſed in this world in another quality, to wit, o a private and particular man, paid willingly tribute. If the Magiſtrates themſelves manifeſtly favour the tyranny, or at the leaſt doe not formally oppoſe it; let private men remember the
Iob. 34. ſaying of *Job*, *That for the ſinnes of the people God permits hypocrites to reigne*, whom it is impoſſible either to convert or ſubvert, if men repent not of their wayes, to walk in obedience to Gods commandments; ſo that there is no other weapons to be uſed, but bended knees and humble hearts. Briefly, let them bear with bad princes, and pray for better, perſwading themſelves, that an outragious tyranny is to be ſupported as patiently, as ſome exceeding dammage done by the violence of tempeſts, or ſome exceſſive over-flowing waters, or ſome ſuch naturall accidents unto the fruits of the earth, if they like not better to change their habitations, by retiring themſelves into ſome other countries. So *David* fled into the mountaines, and attempted nothing againſt the Tyrant *Saul*, becauſe the people had not declared him any publick-Magiſtrate of the Kingdome.

Jeſus Chriſt, whoſe kingdome was not of this world, fled into Egypt, and ſo freed himſelfe from the pawes of the Tyrant. Saint
Rom. 13. *Paul* teaching of the duty of particular Chriſtian men, and not of Magiſtrates, teacheth that *Nero* muſt be obeyed. But if all the principall Officers of State, or divers of them, or but one, endeavour to ſuppreſſe a manifeſt tyranny, or if a Magiſtrate ſeek to free that province, or portion of the kingdome from oppreſſion, which is committed to his care and cuſtody, provided under colour of freedome he bring not in a new tyranny, then muſt all men with joynt courage and alacrity, run to Armes, and take part with him or them, and aſſiſt with body and goods, as if God himſelfe from heaven had proclaimed warres, and meant to joyn battell againſt tyrants, and by all wayes and meanes endevour to deliver their Countrey and Common-wealth from their tyrannous oppreſſion. For as God doth oftentimes chaſtiſe a people by the cruelty of tyrants: ſo alſo doth he many times puniſh tyrants by the hands of the people. It being a moſt true ſaying,
Eccluſ 10. verified in all ages: *For the iniquities, violences, and wickednesſes of Princes, Kingdomes are tranſlated from one Nation to another: but tyranny was never of any durable continuance.*

The

The *Centurians* and men at armes did freely and couragiously execute the commandments of the High Prieſt *Jehoiada*, in ſuppreſſing the tyranny of *Athalia*. In like manner all the faithfull and generous *Iſraelites* tooke part and joyned with the *Machabites*, as well to re-eſtabliſh the true ſervice of God, as alſo to free and deliver the State from the wicked and unjuſt oppreſſion of *Antiochus*, and God bleſſed with happy ſucceſſe their juſt and commendable enterprize. What then? cannot God when he pleaſeth ſtirre up particular and private perſons to ruine a mighty and powerfull tyranny? Hee that gives power and ability to ſome even out of the duſt without any title or colourable pretext of lawfull authority to riſe to the height of rule and dominion, and in it tyrannize and afflict the people for their tranſgreſſions? cannot he alſo even from the meaneſt multitude raiſe a liberator? Hee which enthral'd and ſubjected the people of *Iſrael* to *Jabin*, and to *Eglon*, did hee not deliver & enfranchiſe them by the hand of *Ehud*, *Barac* and *Debora*, whilſt the Magiſtrates & Officers were dead in a dul & negligent extaſie of ſecurity? What then ſhall hinder, you may ſay the ſame God who in theſe dayes ſends us Tyrants to correct us, that he may not alſo extraordinarily ſend correctors of tyrants to deliver us? What if *Ahab* cut off good men, if *Jezabel* ſubborn falſe witneſſes againſt *Naboth*, may not a *Jehu* be rais'd to exterminate the whole line of *Ahab*, to revenge the death of *Naboth*, and *to caſt the body of Jezabel to be torne and devoured of dogs?* Certainly as I have formerly anſwered, the Almighty is ever mindfull of his juſtice, and maintains it as inviolably as his mercy.

But for as much as in theſe latter times, thoſe miraculous teſtimonies by which God was wont to confirme the extraordinary vocation of thoſe famous Worthies, are now wanting for the moſt part: let the people be adviſ'd, that in ſeeking to croſſe the Sea dry foote, they take not ſome *Impoſtor* for their guide, that may lead them head-long to deſtruction (as we may read happened to the *Jewes*:) and that in ſeeking freedome from tyranny, he that was the principall inſtrument to diſ-inthrall them, became not himſelfe a more inſupportable Tyrant than the former: briefly, leſt endeavouring to advantage the Common-wealth, they introduce not a common miſery upon all the undertakers, participating therein with divers States of *Italy*, who ſeeking to ſuppreſſe the preſent evill, added an acceſſion of greater, and more intollerable ſervitude.

Finally, that we may come to ſome period of this third queſtion; Princes are choſen by God, and eſtabliſht by the people: As all particulars conſidered one by one are inferiour to the Prince: ſo the whole body of the people and Officers of State which repreſent that body, are the Princes ſuperiours. In the receiving and inauguration of a Prince, there are Covenants and contracts paſſed between him and the people, which are tacite and expreſſed, naturall or civill: to wit, to obey him faithfully whilſt he commands juſtly, that he ſerving the Common-wealth, all men ſhall ſerve him, that whilſt he governs according to law, all ſhall be ſubmitted to his government, &c. The Officers of the Kingdome are the Guardians and Protectors of theſe Covenants and contracts. He that maliciouſly or wilfully violates theſe conditions, is queſtionleſſe a Tyrant by practice. And therefore the Officers of State may judge him according to the lawes: and if he ſupport his tyranny by ſtrong hands, their duty bindes them, when by no other meanes it can be effected, by force of armes to ſuppreſſe him.

Of theſe Officers there be two kindes, thoſe which have generally undertaken the protection of the Kingdome: as the Conſtable, Marſhalls, Peers, Palatines, and the reſt, every one of which, although all the reſt doe either connive or conſort with the tyranny, are bound to oppoſe and repreſſe the Tyrant: and thoſe which have undertaken the government of any Province, Citie, or part of the Kingdome, as Dukes, Marqueſſes, Earles, Conſuls, Mayors, Sheriffes, &c. they may according to right expell and drive tyranny and Tyrants from their Cities, Confines, and governments.

But particular and private perſons may not unſheath the ſword againſt Tyrants by practiſe, becauſe they were not eſtabliſht by particulars, but by the whole body of the people. But for Tyrants which without title intrude themſelves for ſo much as there is no contract or agreement betweene them and the people, it is indifferently permitted all to oppoſe and depoſe them; and in this rank of Tyrants may thoſe be rang'd, who, abuſing the weakeneſſe and ſloath of a lawfull Prince, tyrannouſly inſult over his Subjects. Thus much for this, to which for a more full reſolution may be added that which hath beene formerly diſcourſed in the ſecond queſtion.

## The fourth queſtion.

*whether neighbour Princes may, or are bound by law to aide the Subjects of other Princes, perſecuted for true Religion, or oppreſſed by manifeſt tyranny.*

WEe have yet one other queſtion to treat of, in the diſcuſſing whereof there is more uſe of an equitable judgement than of a nimble apprehenſion: and if charity were but in any reaſonable proportion prevalent amongſt the men of this age, the diſputation thereof were altogether frivolous: but ſeeing nothing in theſe dayes is more rare nor leſſe eſteemed than charity; we will ſpeak ſome-what of this our queſtion. We have already ſufficiently proved that all Tyrants, whether thoſe that ſeeke to captivate the minds and ſoules of the people with an erroneous and ſuperſtitious opinion in matter of Religion, or thoſe that would enthrall their bodies and eſtates with miſerable ſervitude and exceſſive impoſitions, may juſtly by the people be both ſuppreſt and expulſt. But for ſo much as Tyrants are for the moſt part ſo cunning, and Subjects ſeldome ſo cautelous, that the diſeaſe is hardly known, or at the leaſt not carefully obſerved before the remedy prove almoſt deſperate, nor thinke of their owne defence before they are brought to thoſe ſtraights, that they are unable to defend themſelves, but compeld to implore the aſſiſtance of others: Our demand therefore is, if Chriſtian Princes lawfully may and ought to ſuccour thoſe Subjects which are afflicted for true Religion, or oppreſt by unjuſt ſervitude, and whoſe ſufferings are either for the kingdome of Chriſt, or for the liberty of their own ſtate? There are many, which hoping to advance their owne ends, and encroach on others rights, that will readily embrace the part of the afflicted, and proclaime the lawfulneſſe of it: but the hope of gaine is the certaine and only aime of their purpoſes: And in this manner the *Romans*, *Alexander* the great, and divers others, pretending to ſuppreſſe Tyrants, have oftentimes enlarged their own limits. It is not long ſince, we ſaw King *Henry* the Second make Wars on the Emperour *Charles* the Fifth, under colour of defending and delivering the Proteſtant Princes. As alſo *Henry* the

Eighth King of *England* was in like manner ready to aſſiſt the *Germans*, if the Emperour *Charles* ſhould moleſt them. But if there be ſome appearance of danger, and little expectance of profit, then it is that moſt Princes doe vehemently diſpute the lawfulneſſe of the action. And as the former cover their ambition and avarice with the vaile of charity and piety: ſo on the contrary doe the other call their feare and cowardly baſeneſſe integrity and juſtice, although that piety (which is ever carefull of anothers good) love no part in the counſels of the firſt: nor juſtice (which affectionately deſires the eaſing of a neighbours griefe) in cooling the charitable intendments of the later. Therefore without leaning either to the one ſide or the other, let us follow thoſe rules which piety and juſtice trace us out in matter of Religion.

Firſt, All accord in this, *That there is one only Church, whereof Jeſus Chriſt is the head*, the members whereof are ſo united and conjoyn'd together, that if the leaſt of them be offended or wrongd, they all participate both in the harme and ſorrow, as throughout holy Scripture plainly appeares. Wherefore the Church is compared to a body: Now it oftentimes happens that the body is not only overthrown by a wound in the arme, or thigh, but even alſo much endangered, yea and ſometimes kill'd by a ſmall hurt in the little finger. Vainly therefore doth any man vaunt that this body is recommended to his care and cuſtody, if he ſuffer that to be diſmembred and puld in pieces which he might have preſerved whole and intire. The Church is compared to an edifice: on which ſide ſoever the building is undermin'd, it many times chances that the whole tumbles downe, and on what rafter or piece of timber ſoever the flame takes hold, it indangers the whole houſe of burning, he muſt needs be therefore worthy of ſcorne who ſhould deferre to quench the fire which had caught his houſe top, becauſe he dwels moſt in the Cellar: would not all hold him for a mad man which ſhould neglect by countermining to fruſtrate a myne, becauſe it was intended to overthrow that wall there, and not this here.

Againe, the Church is reſembled to a ſhip, which as it ſailes together, ſo doth it ſinke together: inſomuch that in a tempeſt, thoſe which be in the fore-caſt, or in the keele, are no more ſecure than thoſe which remaine at the ſtern or on the decke: ſo that the proverb commonly ſaies, when men runne the like hazard in matter of danger, that they venture both in one bottome. This

being

being granted, queſtionleſſe whoſoever hath not a fellow-feeling in commiſerating the trouble, danger & diſtreſſe of the Church, is no member of that bodie, nor domeſtick in the family of Jeſus Chriſt, nor hath any place in the Ark of the covenant of grace. He wch hath any ſenſe of Religion in his heart ought no more to doubt whether he be oblig'd to aid the afflicted members of the Church, than he would be aſſiſting to himſelfe in the like diſtreſſe: for the union of the Church unites us all into one bodie, and therefore every one in his calling muſt be ready to aſſiſt the needy, and ſo much the more willingly, by how much the Almighty hath beſtowed a greater portion of his bleſſings on us: which were not conferr'd, that we ſhou'd be made poſſeſſors of them, but that we ſhould be diſpenſers thereof according to the neceſſity of his Saints.

As this Church is one, ſo is ſhee recommended, and given in charge to all Chriſtian Princes in generall, and to every one of them in particular: For ſo much as it was dangerous to leave the care to one alone, and the unity of it would not by any meanes permit, that ſhe ſhould be divided into pieces, and every portion aſſign'd unto one particular: God hath committed it all intire to particulars, and all the parts of it to all in generall, not only to preſerve and defend it, but alſo to amplifie and encreaſe it as much as might be. Inſomuch that if a Prince which hath undertaken the care of a portion of the Church, as that of *Germany* and *England*, and notwithſtanding neglect and forſake another part that is oppreſſed, and which he might ſuccour, he doubtleſſe abandons the Church, Chriſt having but one only Spouſe, which the Prince is ſo bound to preſerve and defend that ſhe be not violated or corrupted in any part if it be poſſible. And in the ſame manner as every private perſon is bound by his humble and ardent prayers to God to deſire the reſtoring of the Church: So likewiſe are the Magiſtrates tied diligently to procure the ſame with the utmoſt of their power and meanes which God hath put into their hands. For the Church of *Epheſus* is no other than that of *Coloſſus*: but theſe two are portions of the univerſall Church, which is the kingdome of Chriſt, the encreaſe and proſperity whereof ought to be the continuall ſubject of all private mens prayers and deſires; but it is the duty of all Kings, Princes, and Magiſtrates, not only to amplifie and extend the limits and bounds of the Church in all places, but only to preſerve and defend it againſt all men whatſoever. Where-

fore there was but one Temple in *Judea* built by *Solomon*, which represented the unitie of the Church. And therefore ridiculous and worthy of punishment were that Church-warden which had care onely of some small part of the Church, and suffered all the rest to be spoiled with raine and weather. In like manner, all Christian Kings when they receive the sword on the day of their Coronation, solemnly sweare to maintaine the Catholick or universall Church, and the ceremony then used doth fully expresse it, for holding the sword in their hands, they turne to the East, West, North, and South, and brandish it, to the end that it may be knowne that no part of the world is excepted. As by this ceremony they assume the protection of the Church, it must be questionlesse understood of the true Church, and not of the false: therefore ought they to imploy the utmost of their abilitie to reforme and wholly to restore that which they hold to be the pure and truely Christian Church, to wit, ordered and governed according to the direction of the Word of God. That this was the practise of godly Princes, we have their examples to instruct us. In the time of
2 Chron. 30. *Ezechias* King of *Juda*, the Kingdome of *Israel* had been a long time before in subjection to the *Assyrians*, to wit, ever since the King *Osea* his time; And therefore if the Church of *Juda* onely, and not the whole universall Church had been committed to the custodie of *Ezechias*: and if in the preservation of the Church the same course were to be held, as in the dividing of lands, and imposing of tributes, then questionlesse *Ezechias* would have contained himselfe within his own limits, especially then when the exorbitant power of the *Assyrians* lorded it every where. Now wee reade that he sent expresse Messengers throughout *Israel*, to wit, to the subjects of the King of *Assyria*, to invite them to come to *Jerusalem* to celebrate the paschall feast: yea and he ayded the faithfull *Israelites* of the tribes of *Ephraim* and *Manasses*, and others the subjects of the *Assyrians*, to ruine the high places which were in their quarters.

2 Kings 22. 2 Chron. 34. & 35. Wee reade also that the good King *Josias* expeld Idolatry, not onely out of his own Kingdome, but also even out of the Kingdome of *Israel*, which was then wholly in subjection to the King of *Assyria*. And no marvell, for where the glory of God, and the kingdome of Christ are in question, there no bounds or limits can confine the zeale and fervent affection of pious and godly Princes. Though the opposition be great, and the power of the opposers greater, yet the

the more they feare God, the leſſe they will feare men. Theſe generous examples of divers godly Princes have ſince been imitated by ſundry Chriſtian Kings, by whoſe meanes the Church (which was heretofore reſtrained within the narrow limits of *Paleſtine*) hath been ſince dilated throughout the univerſall world. *Conſtantine* and *Licinius* governed the Empire together, the one in the Orient, the other in the Occident, they were aſſociates of equall power and authoritie. And amongſt equalls, as the Proverb is, there is no command. Notwithſtanding, becauſe *Licinius* doth every where baniſh, torment, and put to death the Chriſtians, and amongſt them divers of the nobilitie, and that for and under pretence of Religion. *Conſtantine* makes warre againſt him, and by force compels him to give free libertie of Religion to the Chriſtians, and becauſe he broke his faith and relapſed into his former cruelties, he cauſed him to be apprehended and put to death in the Citie of *Theſſalonica*. This Emperours pietie was with ſo great an applauſe celebrated by the Divines of thoſe times, that they ſuppoſe that ſaying in the Prophet *Iſaiah*, to be meant by him; *That Kings ſhall be Paſtors and nurſing Fathers of the Church*. After his death the *Roman* Empire was divided equally between his ſonnes, without advantaging the one more than the other. *Conſtans* favoured the orthodox Chriſtians, *Conſtantius* being the elder, leaned to the *Arrians*, and for that cauſe baniſhed the learned *Athanaſius* from *Alexandria*; the greateſt profeſſed adverſary of the *Arrians*. Certainly, if any conſideration in matter of confines be abſolutely requiſite, it muſt needs be amongſt brethren. And notwithſtanding *Conſtans* threatens to warre on his brother, if he reſtore not *Athanaſius*, and had without doubt performed it, if the other had long deferred the accompliſhment of his deſire. And if he proceeded ſo farre for the reſtitution of one Biſhop: had it not been much more likely and reaſonable, for him to have aſſiſted a great part of the people, if they implored his ayde againſt the tyranny of thoſe that refuſed them the exerciſe of their Religion, under the authoritie of their Magiſtrates and Governours? So at the perſwaſion of *Attieus* the Biſhop, *Theodiſius* made warre on *Coſroes* King of *Perſia* to deliver the Chriſtians of his Kingdome from perſecution, although they were but particular and private perſons. Which certainly thoſe moſt juſt Princes, who inſtituted ſo many worthy Lawes, and had ſo great and ſpeciall care of juſtice, would not have done, if by that

*Par in parem non habet imperium.*

*Sozo. lib. 7. cap. 18.*

fact

fact they had ſuppoſed any thing were uſurpt on another mans right, or the Law of Nations violated. But to what end were ſo many expeditions undertaken by Chriſtian Princes into the holy Land againſt the *Saracens?* Wherefore were demanded and raiſed ſo many of thoſe Saladine tenths? To what purpoſe were ſo many confederacies made, and croyſadoes proclaimed againſt the *Turkes*, if it were not lawfull for Chriſtian Princes, yea thoſe furtheſt remote, to deliver the Church of God from the oppreſſion of tyrants, and to free captive Chriſtians from under the yoke of bondage? What were the motives that led them to thoſe warres? What were the reaſons that urged them to undergoe thoſe dangers? But onely in regard of the Churches union, Chriſt ſummond every man from all parts with a unanimous conſent, to undertake the defence thereof? For all men are bound to repulſe common dangers with a joynt and common oppoſition: all which have a naturall conſent and relation with this wee now treat of. If this were lawfull for them againſt *Mahomet*, and not onely lawfull, but that the backward and negligent were ever made liable to all infamous contempt, and the forward and readie undertakers alwayes recompenced with all honourable reſpect and reward, according to the merit of their vertues: wherefore not now againſt the enemy of Chriſt & his Saints? If it be a lawfull warre to fight againſt the *Greekes* (that I may uſe that phraſe) when they aſſayle our *Troy*: wherefore is it unlawfull to purſue and prevent that incendiary *Sinon?* Finally, if it have been eſteemed an heroicall act to deliver Chriſtians from corporall ſervitude, (for the *Turkes* enforce none in point of Religion) is it not a thing yet much more noble to infranchiſe and ſet at libertie ſoules impriſoned in the miſts of error?

Theſe examples of ſo many religious Princes, might well have the directive power of Law. But let us heare what God himſelfe pronounces in many places of his Word by the mouth of his Prophets, againſt thoſe which advance not the building up of his Church, or which make no reckoning of her afflictions. The *Gadites*, the *Reubenites*, and halfe tribe of *Manaſſes*, deſire of *Moſes* that he would allot them their portion on the other ſide of *Jordan*. *Moſes* grants their requeſt, but with this proviſo and condition: That they ſhould not onely aſſiſt their other brethren the *Iſraelites* to conquer the land of *Canaan*, but alſo that they ſhould march the firſt, and ſerve as vauntgard to the reſt, becauſe they had their portion;

Numb. 32. Ioſh. 4. 12. Deut. 3. 20.

tions first set them forth, and if they faile to performe this dutie, he with an anathema, destines them to destruction, and compares them to those which were adjudged rebells at *Cadisbarnea*. And what? sayes he, your brethren shall fight, and you in the meane season rest quiet at home? Nay on the contrary, you also shall passe *Jordan*, and not returne into their houses, before first the Lord have driven his enemies out from before his face, and granted place to your brethren as well as you, then shall you be innocent before the Lord and his people *Israel*. He shews by this that those which God first blesseth with so great a benefit, if they help not their brethren, if they make not themselves sharers in their labours, companions in their travells, and leaders in their dangers, they must questionlesse expect a heavie punishment to fall upon them.

Likewise when under the conduct of *Debora*, the *Nephtalites* and *Zabulonites* took armes against the tyrant *Jabin:* and that in the meane season the *Reubenites* which should have been first in the field took their ease and played on their pipes, whilest their flockes and herds fed at libertie: the *Gadites* held themselves secured with the rampire of the river; the *Danites* gloried in their command at Sea; And *Asshur*, to be briefe, was confident in the difficult accesse of their mountaines: The Spirit of the Lord speaking by the Prophetesse, doth in expresse termes condemne them all; *Curse yee Meros* (said the Angel of the Lord) *curse yee bitterly the inhabitants thereof: because they came not to the helpe of the Lord, to the helpe of the Lord against the mightie. But blessed above women shall Jael the wife of Heber the Kenite be*, who though shee might have alledged the alliance which her husband had with the *Canaanites*, did notwithstanding kill *Sisera* the Generall of the enemies armie. And therefore *Uriah* spake religiously, and like a true Patriarke, when he said, *The Arke of the Lord, and Israel, and Judah abide in tents, and my Lord Joab, and the servants of my Lord are encamped in the open fields; Shall I then goe into mine house, to eate and to drinke, and to lie with my wife? as thou livest, and as thy soule liveth, I will not doe this thing.* But on the contrary, impious and wicked were the Princes of *Israel*, who supposing themselves secured by the craggy mountaines of *Samaria*, and strong fortifications of *Sion*, tooke libertie to loose themselves in luxurious feasts, loose delights, drinking delicious wines, and sleeping in perfum'd beds of Ivorie, despising in the meane season poore *Joseph*, to wit, the Lords flock tormented and miserably vext

Iudges 5.

Iudges 5. 23.

2 Sam. 11. 11.

Amos 6.

on all ſides, nor have any compaſſion on their affliction. *The Lord God hath ſworn by himſelf, ſayth the Lord God of Hoſts, I abhor the excellency of Jacob, and hate his pallaces: therefore will I deliver up the City, with all that is therein, and thoſe that wallow thus in pleaſures, ſhall be the firſt that ſhall goe into captivity.* Wickedly therefore did thoſe
Judg. 8. & 12. *Ephraimites*, who in ſtead of congratulating and applauding the famous and notable victories of *Gideon* and *Jephta*, did envie and traduce them, whom notwithſtanding they had forſaken in dangers.

As much may be ſaid of the *Iſraelites*, who ſeeing *David* overcome the difficulty of his affaires, and remain a peaceable King,
2 Sam. 5. 2. ſay aloud, *We are thy fleſh and thy bones*: and ſome years after, ſeeing
2 Sam. 20. 1. him imbroil'd again in troubles, cried out, *We have no part in David, neither have we inheritance in the ſon of Jeſſe.* Let us rank alſo with theſe, all thoſe Chriſtians in name only, wch wil communicate at the holy table, and yet refuſe to take the cup of affliction with their brethren, which look for ſalvation in the Church, and care not for the ſafety and preſervation of the Church, & the members thereof. Briefly, which adore one and the ſame God the Father, acknowledge and avow themſelves of the ſame houſhold of faith, and profeſſe to be one and the ſame body in Jeſus Chriſt, and notwithſtanding yeeld no ſuccour nor aſſiſtance to their Saviour afflicted in his members. What vengeance doe you thinke will
Numb. 32. God inflict on ſuch impiety? *Moſes* compares thoſe which abandon their brethren to the rebels of *Cadeſhbarnea*: Now none of thoſe by the decree of the Almighty, entred into the land of Canaan. Let not thoſe then pretend any intereſt in the heavenly Canaan, which will not ſuccour Chriſt when he is crucified, and ſuffering a thouſand times a day in his members, and as it were begging their almes from door to door. The Son of God with his owne mouth condemnes them to everlaſting fire that when he was hungry gave him no meat; when he was thirſty, gave him no drink; when he was a ſtranger, lodged him not; naked, and cloathed him not; ſick, and in priſon, and viſited him not. And therefore let thoſe expect puniſhments without end, which lend a deafe eare to the complaints and groan of our Saviour Jeſus Chriſt, ſuffering all theſe things daily in his members; although otherwiſe they may appeare both to others and themſelves to be jolly Chriſtians, yet ſhall their condition be much more miſerable than that

of

of many Infidels. For why; were they the Jews onely, & Scribes and Phariſes, to ſpeak properly, that crucified Chriſt? or were they Ethnicks, Turks, or ſome certain pernitious Sects of Chriſtians, which crucifie, torment, and perſecute him in his members? No certainly, the Jewes hold him an impoſter, the Ethnicks a malefactor, the Turks an Infidell, the others an heretick, inſomuch as if we conſider the intention of theſe men, as the cenſuring of all offences ought to have principall relation thereunto, we cannot conclude that it is properly Chriſt that they perſecute with ſuch hatred, but ſome criminal perſon, which in their opinion deſerves this uſage: But they doe truly and properly perſecute and crucifie Chriſt Jeſus, which profeſſe to acknowledge him for the *Meſſias*, God and Redeemer of the world, and which notwithſtanding fail to free him from perſecution and vexation in his members, when it is in their power to do it. Briefly, he which omits to deliver his neighbour from the hands of the *murderer*, when he ſees him in evident danger of his life, is queſtionleſſe guilty of the murther, as well as the murtherer. For ſeeing he neglected when he had means to preſerve his life, it muſt needs neceſſarily follow, that he deſired his death. And in all crimes the will and intendment ought principally to be regarded. But queſtionleſſe theſe Chriſtian princes which do not releive and aſſiſt the true profeſſors, which ſuffer for true religion, are much more guilty of murther than any other, becauſe they might deliver from danger an infinite number of people, which for want of timely ſuccours, ſuffer death and torments under the cruel hands of their perſecuters: and to this may be added, that to ſuffer ones brother to be murthered, is a greater offence than if he were a ſtranger. Nay, I will ſay further, thoſe forſakers of their brethren in their time of danger and diſtreſſe, are more vile, and more to be abhorred than the tyrants themſelves that perſecute them. For it is much more wicked, and worthy of greater puniſhment to kill an honeſt man that is innocent & fearing God (as thoſe which conſent with them in the faith muſt of neceſſity know the true profeſſors to be) than a thiefe, an impoſter, a magician or an heretick, as thoſe which perſecute the true Chriſtians do commonly beleeve them to be, It is a greater offence by many degrees to ſtrive with God than man. Briefly, in one and the ſame action it is a much more grievous crime perfidiouſly to betray, than ignorantly to offend. But may

*Aug. in Pſa. 32*
*Amb. lib. 1. de Offic.*
*Gratian in Decret.*

the ſame alſo be ſaid of them which refuſe to aſſiſt thoſe that are oppreſſed by tyranny, or defend the liberty of the Common-wealth againſt the oppreſsion of tyrants? For in this caſe the conjunction or confederacy ſeemes not to be of ſo ſtrict a condition between the one and the other, here we ſpeak of the Common-wealth diverſly governed according to the cuſtomes of the countries, and particularly recommended to theſe here, or thoſe there, and not of the Church of God, which is compoſed of all, and recommended to all in generall, and to every one in particular. The Jew ſaith, our Saviour Chriſt is not onely neighbour to the Jew, but alſo to the Samaritan, and to every other man. But we ought to love our neighbour as our ſelves; and therefore an Iſraelite is not onely bound to deliver an Iſraelite from the hands of theeves, if it be in his power, but every ſtranger alſo; yea, though unknown, if he will righely diſcharge his duty: neither let him diſpute whether it be lawfull to defend another, which beleeves he may juſtly defend himſelf. For it is much more juſt, if we truly conſider the concomitants, to deliver from danger and outrage another than ones ſelfe; ſeeing that what is done for pure charity, is more right and allowable, than that which is executed for colour, or deſire of revenge, or by any other tranſport of paſſion: in revenging our own wrongs we never keep a mean, whereas in other mens, though much greater, the moſt intemperate will eaſily obſerve moderation. Furthermore, the heathens themſelves may teach us what humane ſociety, and what the law of nature requires of us in this buſines; wherefore *Cicero* ſayes, *That Nature being the common mother of mankind, preſcribes and ordaines, that every man endevour and procure the good of another whatſoever he be, onely becauſe he is a man: otherwiſe all bonds of ſociety, yea and mankinde it ſelf muſt needs goe to ruine.* And therefore as Juſtice built on theſe two Baſis, or pillars, Firſt, that none be wronged: ſecondly, that good be done to all if it be poſſible. So alſo is there two ſorts of injuſtice; the firſt, in thoſe which offer injury to their neighbours; the ſecond, in them which when they have meanes to deliver the oppreſſed, doe notwithſtanding ſuffer them to ſink under the burthen of their wrongs: For whoſoever doth wrong to another, either mov'd thereunto by anger, or any other paſſion, he may in a ſort be truly ſaid to lay violent hands on his companion; but he which hath meanes and defends not the afflicted,

*Cicero lib. 1. & 3. Offic.*

flicted, or to his power wards not the blowes that are ſtruck at him, is as much faulty, as if he forſook his parents, or his friends, or his countrey in their diſtreſſe. That which was done by the firſt, may well be attributed to choler, which is a ſhort madneſſe; the fault committed by the other, diſcovers a bad minde, and a wicked purpoſe, which are the perpetuall tormentors and tyrants of the conſcience. The fury of the firſt may be in ſome ſort excuſed, but the malice of the ſecond admits no colour of defence. Peradventure you will ſay, I feare in aiding the one, I ſhall doe wrong to the other. And I anſwer, You ſeek a Cloak of juſtice wherewith to cover your baſe remiſneſſe: and if you lay your hand on your heart, you will preſently confeſſe, that it is ſomewhat elſe, and not juſtice, that withholds you from performing your duty. For as the ſame *Cicero* ſayes in another place, *Either thou wilt not make the wrong-doer thine enemy, or not take paines, or not be at ſo much charge, or elſe negligence, ſloth, or the hindering of thine own occaſions, or the croſſing of other purpoſes, takes thee off from the defence of thoſe who otherwiſe thou art bound to relieve. Now in ſaying thou onely attends thine own affaires, fearing to wrong another, thou falleſt into another kind of injuſtice: for thou abandoneſt humane ſociety, in that thou wile not afford any endeavour either of mind, body, or goods, for the neceſſary preſervation thereof.* Read the Directions of the heathen Philoſophers and Politicians who have written more divinely herein, than many Chriſtians in theſe dayes. From hence alſo proceeds, that the *Roman* law deſignes puniſhment to that neighbour which will not deliver the ſlave from the outragious fury of his maſter.

Amongſt the *Ægyptians*, if any man had ſeene another aſſail'd and diſtreſs'd by thieves and robbers, and did not according to his power preſently aid him, he was adjudgd worthy of death, if at the leaſt he diſcover'd or delivered not the delinquents into the hand of the Magiſtrate. If he were negligent in performing this duty for the firſt mulct, he was to receive a certaine number of blowes on his body, and to faſt for 3. dayes together. If the neighbour be ſo firmely oblig'd in this mutuall duty of ſuccour to his neighbour, yea to an unknowne perſon in caſe hee be aſſail'd by thieves: ſhall it not be lawfull for a good Prince to aſſiſt, not ſlaves to an imperious Maſter, or children againſt a furious Father; but a Kingdome againſt a Tyrant, the Common-wealth againſt the private ſpleene

*Diodor. Siculus, l. 2. c. 2.*

of

of none, the people (who are indeed the true owners of the State) againſt a miniſtring ſervant to the publique. And if he careleſſly or wilfully omit this duty, deſerves he not himſelfe to be eſteem'd a Tyrant, and puniſhed accordingly, as well as the other a robber, which neglected to aſſiſt his neighbour in that danger? *Theucidides* upon this matter ſaies, *that thoſe are not only Tyrants which make other men ſlaves, but much more thoſe who having meanes to ſuppreſſe and prevent ſuch oppreſſion, take no care to performe it.* And amongſt others, thoſe which aſſumed the title of Protectors of *Greece*, and defenders of the Countrey: and yet ſtirre not to deliver their Countrey from oppreſſion of ſtrangers, and truly indeed. For a Tyrant is in ſome ſort compeld to hold a ſtraight and tyrannous hand over thoſe, who by violence and tyranny, he hath conſtrain'd to obey him, becauſe as *Tiberius* ſaid, *he holds the Wolfe by the eares, whom he can neither hold without paine and force, nor let goe without danger & death.* To the end then that he may blot out one ſin with another ſinne, he fileth up one wickednesſe to another, and is forced to do injuries to others, leſt hee ſhould prove by remiſneſſe injurious to himſelfe. But the Prince which with a negligent and idle regard lookes on the outragiouſneſſe of a Tyrant, and the maſſacring of Innocents, that he might have preſerved, like the barbarous ſpectacles of the *Roman* ſword-players is ſo much more guilty than the Tyrant himſelfe, by how much the cruel and homicidious directers and appointers of theſe bloody ſports, were more juſtly puniſhable by all good laws than the poore and conſtrain'd actors in thoſe murthering tragedies: and as he queſtionleſſe deſerves greater puniſhment, which out of inſolent jollity murthers one, than hee which unwillingly for feare of a further harme kills a man. If any object that it is againſt reaſon and good order to meddle in the affaires of another: I anſwer with the olde man in *Terrence*, *I am a man, and I believe that all duties of humanity are fit and convenient for me. If others ſeeking to cover their baſe negligence, and careleſſe unwillingneſſe, alledg that bounds and juriſdictions are diſtinguiſht one from another, and that it is not lawfull to thruſt ones ſickle into anothers harveſt.* Neither am I alſo of that opinion, that upon any ſuch colour or pretence, it is lawfull for a Prince to encroach upon anothers juriſdiction or right, or uppon that occaſion to uſurp anothers countrey, and ſo carry another mans corne into his barne, as divers have taken ſuch ſhadowe to maske their bad intentions. I will

*Thucid. lib. 1.*

*Pompon. de reg. jur. leg. 36.*

not

not I say, that after the manner of those arbitrators which *Cicero* speaks of, thou adjudge the things in controversie to thy selfe. But I require that you represse the Prince that invades the kingdome of Christ, that you containe the Tyrant within his owne limits, that you stretch forth your hand of compassion to the people afflicted, that you raise up the Common-wealth lying groveling on the ground, and that you so carry your selfe in the ordering and managing of this, that all men may see your principall aime and end was the publique benefit of humane society, and not any private profit or advantage of your owne; For seeing that justice respects only the publique, and that which is without, and injustice fixes a man wholly on himselfe: it doubtlesse becomes a man truly honest so to dispose his actions, that ever private interests give place, and yield to publique commoditie. *Cicer. 2. offic.*

Briefly to epitomize what hath bin formerly said if a Prince outragiously over-pass the bounds of piety & justice. A neighbor Prince may justly and religiously leave his owne Countrey, not to invade and usurp anothers, but to containe the other within the limits of justice and equity: and if he neglect or omit his duty herein, hee shewes himselfe a wicked and unworthy Magistrate. If a Prince tiranni'ze over the people, a neighbour Prince ought to yield succours as freely and willingly to the people, as he would doe to the Prince his Brother if the people mutined against him: yea he should so much the more readi ly succour the people, by how much there is more just cause of pity to see many afflicted, than one alone. If *Porsena* brought *Tarquinius Superbus* backe to *Rome*, much more justly might *Constantine*, requested by the Senate, and *Roman* people, expell *Marentius* the Tyrant from *Rome*. Briefely, if man become a Wolfe to man, who hinders that man (according to the proverb) may not be instead of God to the needy? And therefore the Ancients have ranckt *Hercules* amongst the gods, because he punisht and tam'd *Procrustes*, *Busiris*, and other Tyrants, the plagues of man kind, and monsters of the earth. So whilst the *Roman* Empire retaind her freedome, she was truly accounted the safe-guard of all the world against the violence of Tyrants, because the Senate was the port and refuge of Kings, people, and Nations. In like manner *Constantine*, called by the *Romans* against *Maxentius*, had God Almighty for the leader of his Army: and the whole Church doth with exceeding commendations celebrate his enterprize, although

that *Maximine* had the same authority in the West that *Constantine* had in the East. Also *Charlemaine* undertook War against the *Lombards*, being requested to assist the Nobility of *Italy*: although the Kingdome of the *Lombards* had been of so long continuance, and he had no just pretence of right over them. In like manner when *Charles* the bald, King of *France*, had tyrannously put to death the Governour of the Country between the River of *Seyne* and *Loyre*, with the Duke *Lambert*, and another Noble man called *Jametius*, and that other great men of the Kingdome were retired unto *Lewis* King of *Germany*, brother, (but by another mother) unto *Charles*, to request aid against him, and his mother called *Judith*, one of the most pernicious women of the world, *Lewis* gave them audience in a full Assembly of the *German* Princes, by whose joynt advice it was decreed, that Warres should be made against *Charles* for the re-establishing in their goods, honours, and estates, those whom he had unjustly dispossest.

Finally, as there hath ever been Tyrants dispersed here and there, so also all histories testifie that there hath been neighbouring Princes to oppose tyranny, and maintain the people in their right. The Princes of these times by imitating so worthy examples, should suppresse the Tyrants both of bodies and soules, and restraine the oppressors both of the Common-wealth, and of the Church of Christ: otherwise they themselves may most deservedly be branded with that infamous title of Tyrant.

And to conclude this discourse in a word, piety commands that the Law and Church of God be maintain'd: Justice requires that Tyrants and destroyers of the Common-wealth be compell'd to reason: Charity challenges the right of relieving and restoring the oppressed. Those that make no account of these things, doe as much as in them lies to drive pietie, justice and charity out of this world, that they may never more be heard of.

FINIS.